



The Assam Election Manual

1940.

SHILLONG

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FOREWORD

This Manual has been prepared, in accordance with the recommendation of the Indian Delimitation Committee, for the guidance of all who may be concerned with elections to the Assam Provincial Legislature. In compiling it, advantage has been taken of the experience gained in the first general elections, as the result of which sundry minor modifications of the previous rules have been made. It is hoped that a study of the Manual will enable the somewhat complex workings of an election to be more readily grasped and will render easier the task of those participating especially because for the first time all the relevant documents are brought within the covers of a single book. Any error may be brought to the notice of the Secretary to the Government of Assam, Legislative Department, Shillong.

2. The special thanks of Government are due to the great care and industry displayed in the collection of material, and its arrangement, by Mr. Radha Ranjan Dhar, M.A., B.L., of the Assam Civil Service.

SHILLONG :
The 16th July 1940.

H. C. STORK,
*Secretary to the Government of Assam,
Legislative Department.*

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CHAPTER I

INTRODUCTORY

1. On the first day of April 1937, the provisions of Part III of the Government of India Act, 1935, hereinafter described as "the Act" came into force and Assam became a Governor's Province.

2. Under section 61 of the Act, the Provincial Legislature of the Province consists of His Majesty represented by the Governor and two Chambers, respectively known as the Assam Legislative Council, hereinafter described also as "the Council" or "Upper Chamber", and the Assam Legislative Assembly, hereinafter described also as "the Assembly" or "Lower Chamber".

3. The Assam Legislative Council is a permanent body not subject to dissolution but as near as may be one-third of the members thereof retire in every third year according to the order* made by the Governor in his discretion, [*vide* section† 61 (3) of the Act].

4. There may be not less than 21 nor more than 22 members in the Assam Legislative Council, and of these, eighteen members are elected from the territorial constituencies formed under paragraph 15 of the Fifth Schedule to the Act for the purpose of electing persons to fill the following classes and number of seats :—

- (1) Ten General seats.
- (2) Six Muhammadan seats.
- (3) Two European seats.

The remaining 3 or 4 members are chosen by the Governor in his discretion from amongst persons who are resident in the Province and are not disqualified to hold a seat by any of the provisions of the Act [*vide* paragraph 14(d) of the Fifth Schedule to the Act and paragraph 16(4) of Part I of the Government of India (Provincial Legislative Councils) Order, 1936,‡ hereinafter described as "the Legislative Councils Order"].

5. The different classes of territorial constituencies of the Assam Legislative Council with their respective extent are specified in Part VI of the Schedule to the Legislative Councils Order. In each of these territorial constituencies, the seat is to be filled by an election [*vide* paragraph 3(3) of Part I of the Legislative Councils Order].

6. Under paragraph eighteen of the Fifth Schedule to the Act the following provision has been made for the Assam Legislative

*See paragraph 6 below.

†See Appendix I.

‡See Appendix III.

Council in order to secure that, as nearly as may be, one-third of the members holding seats of each class shall retire in every third year : —

(1) The term of office of the members of the Legislative Council elected at the first General Election held under the Act from the constituencies named in the first column of the statement below shall be that noted against the name of the constituency in the second column of the said statement : —

Name of Constituency	Number of years for which member shall be chosen at first general election
----------------------	--

I.—GENERAL

Goalpara	...	...	...	Six.
Kamrup	...	...	...	Nine.
Darrang	...	...	...	Three.
Nowgong	...	...	...	Three.
Sibsagar	...	...	...	Nine.
Lakhimpur	...	...	...	Six.
Cachar	...	...	...	Three.
Hills ...	...	...	...	Nine.
Sylhet (West)	...	...	...	Six.
Sylhet (East)	...	...	...	Nine.

II.—MUHAMMADAN

Lower Assam Valley	...	...	Six.
Upper Assam Valley	...	...	Six.
Surma Valley (East)	...	...	Three.
Surma Valley (Central)	...	...	Three.
Surma Valley (North-East)	...	...	Nine.
Surma Valley (South-West)	...	...	Nine.

III.—EUROPEAN

Assam Valley	...	...	Six.
Surma Valley	...	...	Three.

(2) In the case of the 3 or 4 seats to be filled by persons chosen by the Governor in his discretion one of the persons shall be chosen to serve for 9 years, one for 6 years and one for 3 years and if any person is chosen to fill the fourth seat his term of office will be 6 years*.

7. The Assam Legislative Assembly, unless sooner dissolved, continues for five years from the date appointed for the first meeting and no longer, and the expiration of the said period of five years operates as a dissolution of the Assembly [vide section 61(2) of the Act].

8. There are 108 members of the Assam Legislative Assembly elected from constituencies, which are either "territorial constituencies" or "special constituencies".

9. A "territorial constituency" is one of the "territorial constituencies" mentioned in paragraphs five and eight of the Fifth Schedule to the Act. A "special constituency" means a constituency not being a "territorial constituency" [*vide* paragraph 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Government of India (Provincial Legislative Assemblies) Order, 1936,* hereinafter described as the Legislative Assemblies Order"].

10. The "territorial constituencies" of the Assam Legislative Assembly are those formed for the purpose of electing persons to fill the following classes and number of seats:—

- (1) Forty-seven general seats including seven reserved for the members of the Scheduled Castes [*vide* Government of India (Scheduled Castes) Order, 1936,† hereinafter described as "the Scheduled Castes Order"].
- (2) Thirty-four Muhammadan seats,
- (3) One European seat,
- (4) One Indian Christian seat, and
- (5) One Women's seat.

The different classes of these "territorial constituencies" with their respective extent and number of seats are specified in the Ninth Schedule to the Legislative Assemblies Order.

11. The "special constituencies" of the Assam Legislative Assembly are those formed for the purpose of electing persons to fill the following classes and number of seats:—

- (1) Four Backward Tribal (Plains) seats,
- 2) Five Backward Areas (Hills) seats,
- (3) Seven European Planting seats,
- (4) Two Indian Planting seats,
- (5) One European Commerce and Industry seat,
- (6) One Indian Commerce and Industry seat, and
- (7) Four Labour (Tea Gardens) seats.

The different classes of these "special constituencies" with their respective extent and number of seats are specified in the Ninth Schedule to the Legislative Assemblies Order.

12. No person can be a member of both Chambers of the Provincial Legislature nor can a person be a member of both the Federal Legislature and of a Provincial Legislature. If a person is chosen a member both of the Federal Legislature and of a Provincial Legislature, then at the expiration of a specified period, that person's seat in the Provincial Legislature becomes vacant unless he has previously resigned his seat in the Federal Legislature (*vide* section 68 of the Act).

*See Appendix II.
†See Appendix IV.

13. Notification No.1310-E1.,* dated the 1st September 1936, as amended by Notification No. 790-E1., dated the 20th February 1937, prescribes the rules [The Assam (Prohibition of Simultaneous Membership) Rules, 1936] providing for the vacation by a person who is chosen as a member of both Chambers of the Provincial Legislature of his seat in one Chamber or the other and specifying the period at the expiration of which the seat in the Provincial Legislature of a person, chosen for both the Federal Legislature and a Provincial Legislature, becomes vacant, unless he has previously resigned his seat in the Federal Legislature.

NOTE I.—All references to the Federal Legislature will be construed as references to the Indian Legislature till the establishment of the Federation [*vide* section 316 of and Ninth Schedule to the Act and also paragraph 4(2) of the Government of India (Commencement and Transitory Provisions) Order, 1936].

NOTE II.—The notice under rule 2 of the said rules may be given to the Secretary to the Government of Assam in the Legislative Department.*

14. No person can be elected to more than one seat in either Chamber of the Provincial Legislature. One so elected to more than one seat must resign all but one seat within the prescribed time (*vide* paragraph 19 of Part I of the Legislative Assemblies Order, paragraph 21 of Part I of the Legislative Councils Order, rule 2 of Part XI of the Assam Legislative Assembly Electoral Rules, 1936,‡ hereinafter described as “the Assembly Rules” and rule 2 of Part VII of the Assam Legislative Council Electoral Rules, 1936,¶ hereinafter described as “the Council Rules”).

CHAPTER II

GENERAL ELECTIONS, ELECTIONS AND BYE-ELECTIONS

1. On the expiration of the five years’ duration of the Assam Legislative Assembly or on its dissolution at an earlier date, a general election will be held for the constitution of a new Assembly.

2. As the Assam Legislative Council is a permanent body not liable to dissolution, there can be no general election after its first constitution. There will, however, be elections held in every third year to fill the seats of members retiring on the expiration of their terms of office (*see* paragraph 6 of Chapter I).

3. On the occurrence of casual vacancies in the seats of the Assam Legislative Assembly or in the seats of the elected members of the Assam Legislative Council, bye-elections will be held to fill them up.

*See Appendix IX.

†Notification No. 380-L., dated the 21st June 1940.

‡See Appendix VII.

¶See Appendix VIII.

4. After a general election of the Assam Legislative Assembly and the territorial elections of the Assam Legislative Council casual vacancies may occur in one or other of the following circumstances :

- (a) if a member dies ;
- (b) if the election of a member is declared void ;
- (c) if a member resigns his seat ;
- (d) if a member is or becomes subject to any of the disqualifications mentioned in sub-section (1) of section 69 of the Act read with sub-sections (3) and (4) thereof ;
- (e) if a person is chosen as a member of both the Assam Legislative Assembly and the Assam Legislative Council or as a member of both the Federal Legislature and the Provincial Legislature, whereupon the vacancy will occur according to the rules mentioned in paragraph 13 of Chapter I ;
- (f) if a person is elected to more than one seat either in the Assam Legislative Assembly or in the Assam Legislative Council, the seat will become vacant (*vide* rule 2 of Part XI of the Assembly Rules and rule 2 of Part VII of the Council Rules).

5. The same Orders in Council and Electoral Rules apply both to general elections and to bye-elections in the Assam Legislative Assembly (*vide* rule 3 of Part XI of the Assembly Rules). In the case of a bye-election to a Labour seat, the constituency will be that in which the seat was filled at the last preceding general election [*vide* paragraph 20(4) of Part IX of the Legislative Assemblies Order].

6. Similarly, the same Orders in Council and Electoral Rules apply both to the triennial elections and to the bye-elections in the Assam Legislative Council (*vide* rule 3 of Part VII of the Council Rules). A member chosen to fill a casual vacancy in the Assam Legislative Council will serve for the remainder of his predecessor's term of office (*vide* paragraph 18 of the Fifth Schedule to the Act and paragraph 6 of Chapter I).

7. When a general election of the Assam Legislative Assembly is held, two notifications will be issued in the *Assam Gazette*, hereinafter described as "the Gazette", calling upon the constituencies to elect members under rule 4(2) of Part XI of the Assembly Rules. The first notification will call upon the members of the Scheduled Castes to elect at a primary election a panel of not more than four candidates for each seat reserved for the members of the Scheduled Castes in the General constituencies of Kamrup Sadar (South), Nowgong (North-East), Jorhat (North), Sunamganj, Habiganj (North), Karimganj (East) and Silchar. The second notification will issue, after the results of the primary election are known, calling upon all constituencies including the aforesaid General constituencies in which seats are reserved for the members of the Scheduled Castes to elect members of the

Assembly. In the case of a general election being due on the expiration of the five years' duration of the Assembly, the first notification may issue at any time not more than four months prior to the date on which the duration of the Assembly is due to expire.

8. Similarly two notifications will also be issued in the Gazette under rule 3 (2) of Part XI of the Assembly Rules in the event of a casual vacancy in a seat reserved in a General constituency for the members of the Scheduled Castes. In the case of a casual vacancy in any other constituency of the Assembly, a single notification will call upon that constituency to elect a member or members under rule 3(1) of Part XI of the Assembly Rules.

9. For the purpose of triennial elections in the Assam Legislative Council, a notification will issue under rule 4(2) of Part VII of the Council Rules, calling upon those particular constituencies of the Council to elect members. This notification may issue not more than four months prior to the date on which the terms of office of the retiring members would expire.

10. In the case of casual vacancies in the seats of elected members of the Council, a similar notification will issue calling upon that constituency to elect a member under rule 3 (1) of Part VII of the Council Rules.

11. In the event of a casual vacancy in the seat of a nominated member of the Council, the vacancy will be filled up under rule 3 (2) of Part VII of the Council Rules. As in the case of elected members, a member nominated to fill a casual vacancy in the seat of a nominated member of the Council will serve for the remainder of his predecessor's term (*vide* paragraph 18 of the Fifth Schedule to the Act and paragraph 6 of Chapter I).

CHAPTER III

ELECTORAL ROLLS—THEIR PREPARATION, REVISION AND PUBLICATION

1. The electoral rolls for the different constituencies of the Assembly once prepared and finally published under rule 28 of Part I of the Assembly Rules will remain in force for five years from the date of this final publication and those for the different constituencies of the Council, prepared and finally published under rule 19 of Part I of the Council Rules, will similarly remain in force for three years.

2. New rolls will be prepared after the expiry of this period of 5 years or 3 years, as the case may be, provided that orders may be issued for earlier preparation of fresh rolls. Till the completion of the new rolls, the old rolls will remain in force for the purpose of any election or bye-election occurring in the meantime (*vide* rule 30 of Part I of the Assembly Rules and rule 21 of Part I of the Council Rules).

3. During this period of 5 years or 3 years, as the case may be, corrections in and additions and amendments to the rolls in force will be made according to rules 31 to 33 of Part I of the Assembly Rules and rules 22 to 24 of Part I of the Council Rules, read with the executive instructions (if any) issued by the Government.

4. Whenever the preparation of fresh electoral rolls falls due or is considered to be necessary, a notification directing such preparation will be issued in the Gazette (*vide* rule 4 of Part I of the Assembly and Council Rules).

5. The "prescribed date" within the meaning of paragraph 2 of Part I of the Sixth Schedule to the Act, paragraph 4 of Part I of the Legislative Assemblies Order and paragraph 5 of Part I of the Legislative Councils Order will also be notified in the Gazette and the new electoral rolls will be made up by reference to this "prescribed date".

Note.—The "prescribed date" is the date with reference to which all electoral qualifications are to be applied and tested. For examples, the "previous financial year" during which income-tax or municipal tax is assessed or the "previous Bengali year" means respectively the year ending on the 31st day of March or on the last day of *Chaitra* next previous to the "prescribed date" so fixed and notified. (*Vide* definitions of "Previous financial year" "Previous Bengali year" and "Bengali year" in Chapter XII). Those who were so assessed in such "previous financial year" will, if otherwise qualified, be included in the rolls. Similarly those passing a prescribed examination (*e.g.*, Middle School Leaving Certificate Examination), having retired from Military forces or Government service, or being invested with a title before this "prescribed date" will be included in the rolls, where they have these electoral qualifications and are otherwise qualified.

6. All the constituencies of the Council are territorial constituencies*. The following constituencies of the Assembly are territorial constituencies† :—

- (1) General constituencies ;
- (2) Muhammadan constituencies ;
- (3) European constituency ;
- (4) Indian Christian constituency ; and
- (5) Women's (Shillong) constituency.

The following constituencies of the Assembly are "special constituencies" :—

- (1) Backward Tribal (Plains) constituencies ;
- (2) Backward Areas (Hills) constituencies ;
- (3) European Planting constituency ;
- (4) Indian Planting constituencies ;
- (5) European Commerce and Industry constituency ;
- (6) Indian Commerce and Industry constituency ; and
- (7) Labour (Tea Gardens) constituencies.

*See paragraph 5 of Chapter I.

†See paragraphs 9 and 10 of Chapter I.

7. The general rules and qualifications for making up the electoral rolls of the territorial constituencies of the Council are prescribed in the Fifth Schedule to the Act and the Legislative Councils Order, those for the territorial constituencies of the Assembly in the Sixth Schedule to the Act read with paragraph 9 of the Fifth Schedule to the Act and Legislative Assemblies Order, and those for the special constituencies of the Assembly in the Legislative Assemblies Order. For easy reference, they are briefly tabulated below :—

	Territorial constituencies of the Council (General, Muhammadan and European)	Territorial constituencies of the Assembly (General, Muhammadan, European, Indian Christian and Women's)	Special constituencies of the Assembly (Backward Tribal and Areas, European and Indian Planting, European and Indian Commerce and Industry and Labour constituencies)
(i) There will be an electoral roll for every constituency and no person who is not, and except as otherwise expressly provided, every person who is included in the roll will be entitled to vote in that constituency.	Paragraph 4 of Part I of the Legislative Councils Order.	Paragraph 1 of Part I of the Sixth Schedule to the Act.	Paragraph 3 of Part I of the Legislative Assemblies Order.
(ii) The electoral roll will be made up and wholly or partly revised by reference to the "prescribed date".	See paragraph 5 of this Chapter above.		
(iii) No person will be included in the roll unless he is 21 years old and is either (a) a British subject, or (b) the ruler or a subject of a Federated State,* or (c) the ruler or subject of any other State prescribed by Rules.	Paragraph 6 of Part I of the Legislative Councils Order and rule 8 of Part I of the Council Rules.	Paragraph 3 of Part I of the Sixth Schedule to the Act and rule 10 of Part I of the Assembly Rules.	Paragraph 5 of Part I of the Legislative Assemblies Order and rule 10 of Part I of the Assembly Rules.
<i>Note.</i> — An American subject being awarded Kaisar-i-Hind Medal, for example, will not be included in the roll.			

* See Chapter XII.

Territorial constituencies of the Council (General, Muhammadan and European)

Territorial constituencies of the Assembly (General, Muhammadan, European, Indian Christian and Women's)

Special constituencies of the Assembly (Backward Tribal and Area, European and Indian Planting, European and Indian Commerce and Industry and Labour constituencies)

- (iv) No person will be included in the roll who is of unsound mind so declared by a competent court. Paragraph 7 of Part I of the Legislative Councils Order. Paragraph 4 of Part I of the Sixth Schedule to the Act. Paragraph 6 of Part I of the Legislative Assemblies Order.

- (v) No person will be included in the roll who is disqualified from voting for corrupt practices and election offences. Paragraph 12 of Part I of the Legislative Councils Order. Paragraph 8 of Part I of the Sixth Schedule to the Act. Paragraph 7 of Part I of the Legislative Assemblies Order.

[See also paragraphs 2, 3, 4, 5 and 6 of Part IV of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936,* hereinafter described as "the Corrupt Practices and Election Petitions Order".]

- (vi) A person owning, holding and occupying property or paying tax or revenue as a trustee, guardian, administrator or receiver or in any other fiduciary capacity should not be included in the roll. Paragraph 15 of Part I of the Legislative Councils Order. Paragraph 11 of Part I of the Sixth Schedule to the Act. Paragraph 9 of Part I of the Legislative Assemblies Order.

- (vii) In the case of a joint family, the manager of a Hindu joint family or in the case of others, an authorised member thereof should be included in the roll. Paragraph 6 of Part VII of the Legislative Councils Order. Paragraph 11(2) of Part IX of the Sixth Schedule to the Act. Paragraphs 10 and 11 of Part I of the Legislative Assemblies Order.

A particular member may also be included if his share is sufficient for the qualification.

Territorial constituencies of the Council (General, Muhammadan and European)

Territorial constituencies of the Assembly (General, Muhammadan, European, Indian Christian and Women's)

Special constituencies of the Assembly (Backward Tribal and Areas, European and Indian Planting, European and Indian Commerce and Industry and Labour constituencies)

- (viii) A person will not be included twice in the electoral roll of any constituency. Paragraph 11(3) of Part I of the Legislative Councils Order. Paragraph 18 of Part I of the Legislative Assemblies Order.
- (ix) No person will be included in the roll for more than one territorial constituency. Paragraph 11(2) of Part I of the Legislative Councils Order and rule 9 of Part I of the Council Rules. Paragraph 7 of Part I of the Sixth Schedule to the Act and rule 11 of Part I of the Assembly Rules.
- Note I.*—A woman can be included in the Women's (Shillong) constituency and one other territorial constituency.
- Note II.*—A person can, however, be included in the roll for one territorial constituency and also one or more special constituencies, if otherwise qualified. One can, for example, be an elector for European constituency, European Planting constituency and European Commerce and Industry constituency, if separately qualified for each.
- (x) No person will be included in the roll for a Muhammadan constituency or a European constituency unless he is a Muhammadan or a European,* as the case may be. Paragraph 8 of Part I of the Legislative Councils Order and paragraph 16 of the Fifth Schedule to the Act. Paragraph 5 of Part I of the Sixth Schedule to the Act.

	Territorial constituencies of the Council (General, Muhammadan and European)	Territorial constituencies of the Assembly (General, Muhammadan, European, Indian Christian and Women's)	Special constituencies of the Assembly (Backward Tribal and Areas, European and Indian Planting, European and Indian Commerce and Industry and Labour constituencies)
(xiv) (a) A woman who at the death of her husband is included in the roll on account of his qualification, will continue in the roll unless remarried or otherwise disqualified.	Paragraph 14 (a) of Part I of the Legislative Councils Order.	Paragraph 10 (a) of Part I of the Sixth Schedule to the Act.	....
	<i>Note.</i> —If she changes residence she may be transferred to other roll accordingly on subsequent revision of the roll.		
(b) Only one woman will be so included in the roll on account of her husband's qualification.	Paragraph 14 (b) of Part I of the Legislative Councils Order and rule 10 of Part I of the Council Rules.	Paragraph 10 (b) of Part I of the Sixth Schedule to the Act and rule 12 of Part I of the Assembly Rules.	....
(xv) No person will be included in the roll of a territorial constituency unless he has a place of residence* in it	Paragraph 1 of Part VII of the Legislative Councils Order.	Paragraph 1 of Part IX of the Sixth Schedule to the Act.	<i>Note.</i> —For special constituencies of the Assembly residence is a necessary qualification for Backward Tribal, Shillong and Jowai Backward Areas constituencies and, in practice, also in Garo Hills and the Mikir Hills Backward Areas constituencies.

Note.—It should be noted that the Naga Hills, Lushai Hills, North Cachar Hills subdivision of the Cachar district and North-East Frontier (Sadiya, Balipara and Iakhimpur) Tracts are "Excluded Areas"† for all constituencies of the Council and the Assembly except for the two Commerce and Industry constituencies of the Assembly. Apart from these two constituencies, and subject to the provisions of the proviso to paragraph 1 of Part IX of the Sixth Schedule to the Act and to paragraph 1 of Part VII of the Legislative Councils Order in case of the rolls for the European territorial constituencies, no person from these "Excluded Areas" will be included in any roll.

* See Chapter XII.

† See Appendix V and Chapter XII.

(xvi) (a) The ordinary franchise qualifications for being included in the rolls for the constituencies of the Council are given in paragraph 2 of Part VII of the Legislative Councils Order.

NOTE I.—As to income-tax assessment, see paragraph 2(3) of Part I of the Legislative Councils Order, and rule 11 of Part I of the Council Rules for the assessed share of a partner in a firm.

NOTE II.—See list of titles, orders or decorations in (2) of Appendix X.

NOTE III.—A person, who was originally awarded a pension of not less than Rs.100 per month but who commuted a portion of the pension and is at the time of the preparation of rolls in receipt of less than Rs.100 per month, is entitled to be included in the roll.

NOTE IV.—A banking union is a society established for facilitating the operations of primary banking societies, and a central bank is a registered society the principal object of which is to control and finance other registered societies which are its members. A co-operative "Town Bank" is, however, not a society established for facilitating the operations of other societies and hence its Chairman is not entitled to be included in the roll.

(b) Additional qualifications for women for the constituencies of the Council are mentioned in paragraph 3 and the special qualifications for the Scheduled Castes in paragraph 4 of Part VII of the Legislative Councils Order.

(xvii) (a) The ordinary franchise qualifications for being included in the rolls for *territorial constituencies* (i.e., General, Muhammadan, European, Indian Christian, and Women's (Shillong) constituencies) of the Assembly are prescribed in the following paragraphs of Part IX of the Sixth Schedule to the Act:—

- (i) Paragraph 2—"qualifications dependent on taxation", e.g., income-tax, municipal or cantonment rates or taxes and chaukidari tax);
- (ii) Paragraph 3—"qualifications dependent on property", e.g., payment of land revenue and local rate on property in districts other than Sylhet, Cachar and Goalpara);
- (iii) Paragraph 4—"educational qualification" e.g., middle school leaving certificate examination or prescribed equivalent thereof); and
- (iv) Paragraph 5—"qualification by reason of service in His Majesty's forces").

NOTE I.—For the share of a partner in a firm assessed to income-tax, see paragraph 13(3) of Part I of the Sixth Schedule to the Act and rule 13 of Part I of the Assembly Rules.

NOTE II.—Municipal rates and taxes include license fees on carriages (like "carts" and motor cars) and a person paying the requisite license fees on carriages should be included in the rolls.

NOTE III.—In the districts of Sylhet, Cachar and Goalpara, payment of chaukidari tax in lieu of payment of land revenue and local rate is the basis of inclusion in the roll. So any person paying any kind of land revenue (e.g., land revenue paid by forest villagers in Goalpara) must be left out of account in these three districts.

NOTE IV.—In regard to qualifications dependent on property, see definition of “a person”* which does not include a body of persons. A company, (e.g., a company or firm owning a tea garden and paying the requisite land revenue or local rate) will not be included in the roll. But if a person *individually* owns a tea garden and pays land revenue, he will be enrolled.

Payment of the requisite land revenue or local rate for all lands on *annual or periodic* patta is a sufficient qualification in the districts other than Sylhet, Cachar and Goalpara. The payment of the requisite “rent” by any tenant or undertenant to a landlord is also a sufficient qualification in the districts other than Sylhet, Cachar and Goalpara.

NOTE V.—For definitions of “Small Town”, “Landlord”, “Tenant” “Rent”, “Previous financial year”, “Bengali year” and “Previous Bengali year”—see Chapter XII.

NOTE VI.—For middle school leaving certificate examination and the prescribed equivalent thereof, see rule 16 of Part I of the Assembly Rules.

No promotion examination of any class in a High School should be taken as an equivalent of the middle school leaving certificate examination, as only a public examination should be taken into consideration. One who appeared in but failed to pass the Matriculation Examination should also be excluded.

NOTE VII.—As regards “qualifications by reason of service in His Majesty’s forces” see also paragraphs 12 and 13 (5) of Part I of the Sixth Schedule to the Act.

(b) The additional qualifications for women are prescribed in paragraphs 6, 7 and 8 of Part IX of the Sixth Schedule to the Act and rule 15 of Part I of the Assembly Rules.

NOTE.—On the commencement of the preparation or revision of the roll, a notice in Form No. I of Appendix XII should be widely published at the various places specified in rule 21 of Part I of the Assembly Rules and in such other places as the Deputy Commissioner or Subdivisional Officer considers necessary. The notice should also be published in the Gazette, and in one or more newspapers circulating in the district or subdivision.

Application is *only* necessary for additional qualifications prescribed in paragraphs 6 and 7 but not for ordinary qualifications prescribed in paragraphs 2, 3, and 4 of Part IX of the Sixth Schedule to the Act. But *application* is not, in relation to women qualified by virtue of their husbands’ qualifications, necessary *after three years* with effect from the 1st April 1937 except where the husband’s qualification is that mentioned in sub-paragraph (a) of paragraph 7 (*vide* proviso to paragraph 8).

(c) Special provisions for the Women's (Shillong) constituency are prescribed in paragraphs 9 and 9A of Part IX of the Sixth Schedule to the Act as amended by paragraph 5 of Part IX of the Legislative Assemblies Order.

(xviii) The qualifications for the *special Backward Tribal (Plains) constituencies* for being included in the electoral rolls are prescribed in paragraph 7 of Part IX of the Legislative Assemblies Order.

NOTE I.—The qualifications are the same as those mentioned in (xvii) subject to the special provisions of paragraph 10 of Part IX of the Sixth Schedule to the Act and subject to the fact that all persons included in these rolls must be members of some backward tribe or other, as specified in Part V of the Thirteenth Schedule to the Legislative Assemblies Order.

NOTE II.—Even Indian Christian, Muhammadan or Hindu members of a backward tribe will be included in the rolls for Backward Tribal (Plains) constituencies (*vide* paragraph 10 of Part IX of the Sixth Schedule to the Act).

(xix) The qualifications for inclusion in the rolls of the *special Backward Areas (Hills) constituencies* are prescribed in the following paragraphs of Part IX of the Legislative Assemblies Order :—

(a) Paragraph 8 (1)—regarding the Garo Hills (North) and (South) constituencies ;

(b) Paragraph 10(1)—regarding the Mikir Hills constituency.

NOTE.—Mikir Mauzadars are recognized as the village headmen of the villages in which they reside.

(c) Paragraph 9—regarding the Shillong and Jowai Backward Areas constituencies.

NOTE I.—*See* paragraph 23 of Part IX of the Legislative Assemblies Order for the definition of "residence".

NOTE II.—For the Middle School Leaving Certificate Examination or its equivalent, *see* rule 16 of Part I of the Assembly Rules.

NOTE III.—Regarding property qualifications prescribed in paragraph 9(3), *see* also paragraph 12 of Part I of the Legislative Assemblies Order.

(xx) The qualifications for inclusion in the rolls for the *special European and Indian Planting* constituencies are prescribed in paragraphs 12 and 16 of Part IX of the Legislative Assemblies Order.

NOTE I.—It should be noted that the word "or" between the expressions "the superintendent or manager of" and "an engineer or medical officer employed on" in paragraphs 12 (a) and 12(b) is *not* exclusive and that the Superintendent, Manager, Engineer and Medical Officer are all qualified to be included in the electoral rolls for the Planting constituencies.

NOTE II.—Manager does *not* include Assistant Manager.

NOTE III.—For co-proprietor to be enrolled under paragraph 12(2), *see* also rule 18 of Part I of the Assembly Rules and paragraph 23 of Part IX of this Order.

NOTE IV. —For definition of a tea estate, see paragraph 12(3) of Part IX of this Order. The expression of seventy five acres means 75 acres of tea under actual cultivation and must not include roads, etc.

NOTE V. —The terms “Engineer” and “Medical Officer” have not been defined and the decisions of the Revising Authority about them are final under rule 27 of Part I of the Assembly Rules. A reasonable interpretation of these two terms may be as follows: —

“Engineer” is a person who is recognized by the management as in responsible charge of the machinery of a tea garden in view of his certification as an engineer or his practical training or long experience. A mere driver of an engine who is ignorant of the principles of mechanical engineering is not engineer for the purpose of electoral rolls.

The term “Medical Officer” will include any person who is entitled under section 17 or 18 of the Assam Medical Act, 1916 (I of 1916) to have his name entered in the register of registered practitioners maintained under this Act and who is genuinely employed as a medical officer on a tea garden. A compounder is not a medical officer.

(xvi) The qualifications for inclusion in the rolls for the *special European and Indian Commerce and Industry constituencies* are prescribed in paragraphs 13, 14 and of 15 of Part IX of the Legislative Assemblies Order.

NOTE I. —See also rule 14 of Part I of the Assembly Rules.

NOTE II. —For definition of “European control” see rule 17 of Part I of the Assembly Rules. So, if the Board of Directors of even a European Company has a majority of Indians, the Company should be included in the roll for the Indian Commerce and Industry constituency.

NOTE III. —The Commerce and Industry constituencies are the only two constituencies of which the extent is the whole province including “Excluded Areas” (see Part IX of the Ninth Schedule to this Order).

NOTE IV. —In connection with “paid up capital”, see also paragraph 2(3) of Part I of this Order.

NOTE V. —Though three persons can be nominated and included in the roll under paragraph 15 of Part IX of this Order only one ballot paper is to be sent (see Note IV to paragraph 15 of Chapter VI).

(xvii) The qualifications for inclusion in the rolls for the *special Labour constituencies* (tea gardens) are prescribed in paragraph 21 of Part IX of the Legislative Assemblies Order read with rule 19 of Part I of the Assembly Rules.

NOTE.—See also paragraph 13 of Part I of the Legislative Assemblies Order.

8. As soon as the notification under paragraph 4 has been issued and the “prescribed date” fixed (*vide* paragraph 5), the Registering Authority appointed under rule 5 of Part I of the Assembly Rules and of Part I of the Council Rules will take steps to prepare the rolls in the form or forms prescribed in rule 7 of Part I of the Assembly Rules and rule 6 of Part I of the Council Rules according to rules 6, 8 and 9 of Part I of the Assembly Rules and 6 and 7 of Part I of the Council Rules and the general rules and qualifications for the different constituencies (*vide* paragraph 7

9. The Registering Authority will collect the necessary information from the persons in charge of municipal, notified area, local board or cantonment records through the Deputy Commissioner of the district and from the Income-tax Officers (*vide* rule 20 of Part I of the Assembly Rules and paragraph 25 of Part I of the Legislative Assemblies Order and paragraph 10 of Part I of the Legislative Councils Order).

He should also take steps for publication of the notice mentioned in Note to paragraph 7 (*xvii*) (*b*).

NOTE :—For the printing of electoral rolls, *see* paragraphs 3 and 4 of Chapter XI for those constituencies of the Assembly in which voting will be on the symbol system ; the rolls should be so printed that they may be conveniently distributed to the different polling stations.

Normally 100 copies of rolls for each of those constituencies of the Assembly in which voting will be on the symbol system and 50 copies for the remaining constituencies of the Assembly and all the constituencies of the Council may be printed. Out of them a few copies may be printed on papers of better quality so that they may be preserved as permanent records in the Legislative Department [*vide* rule 4(3) of Part XII of the Assembly Rules and of Part VIII of the Council Rules.]

10. After the commencement of the preparation of the rolls, a date or dates will be notified in the Gazette, on or before which the Registering Authority must actually publish the electoral rolls, as prescribed in rule 21 of Part I of the Assembly Rules and rule 12 of Part I of the Council Rules.

NOTE I :—The rolls may be published with a Notice in form II of Appendix XII inviting claims and objections under rule 23 of Part I of the Assembly Rules and rule 14 of Part I of the Council Rules.

NOTE II :—In districts containing subdivision or subdivisions the Revising Authority may direct the Subdivisional Officer or Officers to receive claims and objections within the subdivision or subdivisions and take preliminary action *on his behalf* according to his instructions. In such districts, the rolls should actually be published on the same date both at the district headquarters and subdivisional headquarters.

11. Claims and objections will be duly published and disposed of under rules 24 to 27 of Part I of the Assembly Rules and rules 15 to 18 of Part I of the Council Rules.

NOTE I :—The notice to be served on the person against whom an objection has been lodged may be issued in Form III of Appendix XII.

NOTE II :—If the corrections in and additions to the rolls are few, they should be made in manuscript in *all* copies of the rolls, but all such corrections and additions must be attested by a gazetted officer. If the number of corrections and additions is unduly large, the rolls may be reprinted.

If an elector's name is ordered to be removed from a roll, his name should be struck off by running a line in red ink through all the entries relating to him including the serial number. The Revising Authority should note at the foot of each page of the roll concerned the total number of names struck off in that page. The other serial numbers should be left undisturbed and the additions may either have new serial numbers at the bottom or numbers like 100A, 100B, 100C, as the case may be.

NOTE III :—If there is any real difficulty about the interpretation of any rule or any provisions of Order in Council, the matter should be referred to the Secretary to the Government of Assam in the Legislative Department in good time for orders or lucidation.

12. The electoral rolls as finally amended by the Revising Authority will be republished by the Registering Authority under rule 28 of Part I of the Assembly Rules and rule 19 of Part I of the Council Rules.

NOTE :—If there is an election taking place synchronously with the preparation of new rolls, the rolls for all General constituencies of the Assembly should, whenever possible, be republished at least one week before the date fixed for the nomination for the primary elections in constituencies in which seats are reserved for the members of the scheduled castes.

13. Copies of electoral rolls will be sold to the public at two pice per page of the roll according to the orders* of the Government. The sale proceeds should be credited to “XLVI.—Miscellaneous—Miscellaneous.”

14. The copies of electoral rolls should be sent to the different Returning Officers according to the orders* of the Government.

CHAPTER IV

RETURNING OFFICERS

1. The Returning Officers for the different constituencies of both the Chambers of the Provincial Legislature have been designated in the Assembly and Council Rules (*vide* rule 1 of Part II and column 2 of Appendix D and Appendix C of the Assembly and Council Rules respectively).

2. Additional Returning Officers are also designated for the different constituencies of both the Lower and Upper Chambers with full power to perform the functions of the Principal Returning Officers mentioned in paragraph 1, except in certain particulars (*vide* rule 2 of Part II and column 3 of Appendix D and Appendix C of the Assembly and Council Rules respectively).

3. The Additional Returning Officers will be subject to the control of the Principal Returning Officers who should in writing delegate to them the authority for performing all or any particular functions of a Returning Officer under the electoral rules as may be considered necessary.

4. As far as practicable the Principal Returning Officers should perform all important functions of a Returning Officer. They should particularly perform the functions of acceptance and scrutiny of nomination papers and counting of votes and declaration and publication of the results of election unless unavoidably prevented by unforeseen circumstances, which should in the case of the District and Subdivisional Officers, be reported to the Commissioner of Divisions and, in the case of others, to the Secretary to the Government of Assam in the Legislative Department.

5. The decisions of the Returning Officers are final under rules 5 and 4 of Part II of the Assembly and Council Rules respectively. But while there is time, the Returning Officers may refer to the Government any difficult question as to the interpretation of any electoral rule or any provisions of the Act or Order in Council.

*See paragraph 3 of Appendix X.

CHAPTER V

NOMINATION AND STEPS TO BE TAKEN THEREAFTER

The Date For Nomination And Its Publication

1. A date for the nomination of candidates and scrutiny of nominations will be fixed in due course under rule 1(2) (a) of Part III and rule 2(2)(a) of Part IV of the Assembly Rules and under rule 1(2)(a) of Part III of the Council Rules and a notification will accordingly be published in the Gazette.

2. The date so fixed for the nomination and scrutiny of nominations for any constituency or constituencies of the Assembly or Council will be notified in the constituency or constituencies in Form IV or V of Appendix XII in the manner* prescribed by the Governor. The notice will be in English and any other language or languages which the Returning Officer considers necessary.

3. In those constituencies in which under the preceding paragraph the date for nomination and scrutiny of nominations has to be notified in different districts or subdivisions, the Returning Officers should, after the publication of the notification calling upon these constituencies to elect members send the Public Notice ahead in Form No. IV or Form No. V of Appendix XII, as the case may be. Before doing so, they should fill it up except the date for nomination and scrutiny of nominations which may be inserted by the District or Subdivisional Officers after the publication of the notification fixing the date for nomination and scrutiny of nominations. In other constituencies the Returning Officers may similarly keep the Public Notice ready so that they may be issued as soon as the date for nomination and scrutiny of nominations is published in the Gazette.

4. At any time between the date of issue of the notification mentioned in paragraph 1 and the date fixed for nomination and scrutiny of nominations, a nomination paper may be filed before the Returning Officer of each constituency of either Chamber of the Provincial Legislature. The Principal Returning Officer or the Additional Returning Officer mentioned in paragraphs 1 and 2 of Chapter IV should during this period be present in the office notified in Form No. IV or Form No. V of Appendix XII, as the case may be, to receive the nomination papers.

5. The Returning Officer should particularly bear in mind the essential requisites of a valid nomination paper which are noted below :—

- (a) The candidate must either personally or by his proposer or seconder, and none else, deliver the nomination paper to the Returning Officer between the hours of 11 a.m. (local) and 1 p.m. (local).
- (b) The nomination paper must be completed in the form prescribed in Appendix E of the Assembly Rules or Appendix D of the Council Rules, as the case may be.

NOTE :—The footnotes to these Appendices should be specially regarded [vide also sub-paragraph to rule 2(3) of Part IV of the Assembly Rules].

* See (4) and (5) of Appendix X.

- (c) The nomination paper must be subscribed in the proper place in the form mentioned in (b) by the candidate and by a proposer and a seconder.

NOTE :—See rule 2(4) of Part IV of the Assembly Rules and rule 1(4) of Part III of the Council Rules as to who can be a proposer and a seconder.

A nominee of a Khasi or Synteng (Pnar) woman who is included in the electoral roll of the Shillong or Jowai Backward Areas constituency of the Assembly can also be a proposer or a seconder.

For seats reserved for the members of the Scheduled Castes in the Legislative Assembly the proposer and seconder must be members of such castes [vide proviso to rule 1(3) of Part III of the Assembly Rules].

An elector included in the electoral roll can be a proposer or seconder only on as many nomination papers as there are vacancies in his constituency. If any proposer or seconder subscribes more nomination papers, those first received will be considered to be the valid nomination papers [vide rule 4(2)(b)(ii) of Part IV of the Assembly Rules and rule 3(2)(b)(ii) of Part III of the Council Rules].

- (d) In the nomination paper every candidate must appoint either himself or some other person as his election agent [vide rule 2(5) of Part IV of the Assembly Rules and rule 1(5) of Part III of the Council Rules.]

NOTE :—No person can be appointed an election agent who is disqualified from being an election agent (vide paragraph 2 of Part II and paragraph 7 of Part IV of the Corrupt Practices and Election Petitions Order and also rule 6 of Part XI of the Assembly Rules and rule 6 of Part VII of the Council Rules).

NOTE II :—The appointment of an election agent can be revoked any time before the lodging of the return of the candidate's election expenses, but the revocation must be signed and dated by the candidate himself (vide paragraph 3 of Part II of the Corrupt Practices and Election Petitions Order).

NOTE III :—The election agent appointed for the primary election will be deemed to be the election agent for the final election in the case of candidates for seats reserved for the members of the Scheduled Castes (vide rule 7 of Part III of the Assembly Rules).

- (e) With the nomination paper each candidate must submit a chalan showing a deposit of, or must deposit in cash or Government Promissory Notes—

- (i) Rs.50 for seats reserved for the members of the Scheduled Castes [vide proviso (ii) to rule 1(3) of Part III of the Assembly Rules] and for tea garden Labour constituencies of the Assembly [vide proviso to rule 3(1) of Part IV of the Assembly Rules];
- (ii) Rs.100 for the Backward Tribal and the Backward Areas constituencies of the Assembly;
- (iii) Rs.250 for other constituencies of the Assembly [vide rule 3(1) of Part IV of the Assembly Rules]; and
- (iv) Rs. 500 for all constituencies of the Council [vide rule 2(1) of Part III of the Council Rules].

- (f) On the nomination papers for all constituencies of the Assembly other than the European, European and Indian Planting and European and Indian Commerce and Industry constituencies, the candidate must declare his selection of a symbol [vide rule 2(6) of Part IV of the Assembly Rules].

6. (i) The Returning Officer will, on receiving a nomination paper, sign thereon the certificate of delivery specifying the date and hour of receipt.

(ii) After 1 p.m. (local) on the date of nomination and scrutiny of nominations, he will publish on his office Notice Board a notice in Form No. VI of Appendix XII, showing all nominations received with full particulars [*vide* rule 2(8) of Part IV of the Assembly Rules and rule 1(7) of Part III of the Council Rules].

(iii) After 1 p.m. (local) on that date, he will also publish on his Notice Board another notice in Form No. VII of Appendix XII, appointing the time and place for the scrutiny of nominations [*vide* rule 4(1) of Part IV of the Assembly Rules and rule 3(1) of Part III of the Council Rules].

(iv) At the appointed time and place, he will hold the scrutiny prescribed in rule 4(2) of Part IV of the Assembly Rules and rule 3(2) of Part III of the Council Rules. The candidates, their election agents, one proposer and one seconder of each candidate and one other person authorised in writing by the candidate, and none else, may attend.

NOTE I:—As to the eligibility of candidates for election to the—

(A) Assam Legislative Assembly

See rule 1(1) of Part III and rule 2(1) of Part IV of the Assembly Rules read with section 69 of, and paragraph 1 of the Fifth Schedule to, the Act, the *Assam Provincial Legislature (Removal of Disqualifications) Act, 1938, and Part IV of the Corrupt Practices and Election Petitions Order, and also for—

- (a) General and Muhammadan Constituencies—Paragraph 12(b) of the Fifth Schedule to the Act, *vide* also paragraph 14(3) of Part I of the Legislative Assemblies Order, and paragraph 2 and Part VIII of the Scheduled Castes Order for General Constituencies ;
- (b) Women's (Shillong) Constituency—Paragraph 2 ;
- (c) European Constituency—Paragraph 3 ;
- (d) Indian Christian Constituency—Paragraph 4 ;
- (e) Backward Tribal (Plains) Constituencies—Paragraph 7(2) ;
- (f) Backward Areas (Hills) Constituencies—Paragraphs 8(2), 9(5) and 10(2) ;
- (g) Planting and Commerce and Industry Constituencies (European and Indian)—Paragraph 17 ;
- (h) Labour (Tea gardens) Constituencies—Paragraph 22 ;
of Part IX of the Legislative Assemblies Order.

(B) Assam Legislative Council

See rule 1(1) of Part III of the Council Rules read with section 69 of, and paragraph 1 of the Fifth Schedule to, the Act and Part IV of the Corrupt Practices and Election Petitions Order, and also paragraph 16 of Part I of the Legislative Councils Order.

NOTE II:—See also paragraph 5 above.

NOTE III.—One person, if qualified, may stand for more than one constituency but see paragraph 14 of Chapter 1 and proviso to rule 3(5) of Part IV read with rule 3 of Part III of the Assembly Rules and proviso to rule 2(5) of Part III of the Council Rules.

NOTE IV:—The scrutiny should be finished on the same day or, if this is impossible, on the next open day [*vide* rule 4(3)(b) of Part IV of the Assembly Rules and rule 3(3) of Part III of the Council Rules].

(v) If the nomination of a candidate is accepted the Returning Officer will then sign and date the certificate of scrutiny in the nomination paper. If the nomination is refused, he will record the reasons for rejection on the nomination paper.

(vi) Before the completion of the scrutiny of nominations and the preparation of the final list of valid nominations, any candidate may withdraw his candidature in writing under rule 2(9) of Part IV of the Assembly Rules and rule 1(8) of Part III of the Council Rules in Form No.VIII of Appendix XII and the Returning Officer will then affix this notice of withdrawal on his Notice Board.

(vii) On the completion of the scrutiny of nominations, he will prepare a list of valid nominations under rule 4(4)(a) of Part IV of the Assembly Rules and rule 3(4) of Part III of the Council Rules in Form No.IX of Appendix XII and will affix it in his Notice Board.

NOTE:—A symbol must be attached to each candidate for all constituencies of the Assembly other than the European, European and Indian Planting, and European and Indian Commerce and Industry constituencies.

(viii) In primary elections, any candidate declared elected may also withdraw his candidature at or before 1 p.m. (local) of the next succeeding day [*vide* rule 5(3) of Part III of the Assembly Rules] in Form No.VIII of Appendix XII *mutatis mutandis*. After expiry of this period on the next day, the Returning Officer will prepare a list, if any, of candidates declared elected in Form No.IX of Appendix XII *mutatis mutandis* and affix it in his Notice Board. He should submit a copy of this list to the Secretary to the Government of Assam, Legislative Department, Election Officer, if appointed, and Secretary, Assam Legislative Assembly.

(iv) If the number of duly nominated candidates in the list of valid nominations is more than the number of seats to be filled up or in the case of a primary election more than four, he should immediately take steps to publish in Form No.X of Appendix XII in the Gazette the names of the candidates in alphabetical order along with the names of symbols assigned to candidates in all constituencies other than the European, European and Indian Planting and, European and Indian Commerce and Industry constituencies of the Assembly. He will also notify the same in the manner* prescribed by the Governor in English or any other language or languages as he considers necessary and report the fact to the Secretary to the Government in the Legislative Department, Election Officer, if appointed, and Secretary, Legislative Assembly or Legislative Council, as the case may be [*vide* rule 4(1) of Part III and rule 6(1) of Part IV of the Assembly Rules and rule 5(1) of Part III of the Council Rules].

* See (4) and (5) of Appendix X.

In a General constituency of the Assembly in which a seat is reserved for the members of the Scheduled Castes and in which the number of candidates elected at the primary election is more than one, the names of the candidates both for this reserved seat and for the non reserved seat or seats will be published in the Gazette as prescribed under rule 8 of Part III of the Assembly Rules and notified in the constituency. They will also be communicated to the different officers mentioned above in respect of other constituencies.

(x) If the number of duly nominated candidate or candidates is equal to the number of seat or seats to be filled up or, in the case of a primary election, is less than five, they will be declared elected [*vide* rules 4(2) and (3) of Part III and rule 6(2) of Part IV of the Assembly Rules and rule 5(2) of Part III of the Council Rules]. In the case of a primary election, if their number is less than five but more than one, steps should be taken as stated in (viii) ; if there is only one duly nominated candidate, he should be declared elected to fill up the seat reserved for the members of the Scheduled Castes in the constituency and the result forthwith published in the Gazette and reported to the Secretary to the Government, Legislative Department, Election Officer if appointed and Secretary, Assam Legislative Assembly [*vide* rule 6(7) of Part IV read with rule 5(2) of Part III of the Assembly Rules]. In the case of all other constituencies, these results should be forthwith published in the Gazette and reported to the different officers mentioned above and also to the Secretary, Legislative Council in case of the Council constituencies.

NOTE.—In those multi-member General constituencies of the Assembly in which a seat is reserved for the members of the Scheduled Castes if more than one candidate have been elected at a primary election to the panel of candidates for the reserved seat, then, even if there are as many candidate or candidates as there are non-reserved seat or seats, they must not be separately declared elected for the non-reserved seat or seats, but there must be a poll. This is necessary for the reason given in paragraph 284 of the Indian Delimitation Committee's Report, Volume I, which reads as follows:—

"We entertain no doubt whatever that if, in the final election, two panel candidates head the poll, the first should be declared elected for the reserved seat, and the second for the non-reserved seat. We cannot accept the contention that the primary and the final elections are two separate elections, one for the reserved and the other for the non-reserved seat. The essence of the pact appears to us to lie in the joint electorate at one synchronous election."

(xi) If there is no candidate at a primary election or in the election of any constituency of the Council or of any of the constituencies of the Assembly containing one seat, the fact should be forthwith reported to Government, so that the constituency may be called upon again to elect a panel of not more than four candidates or a member, as the case may be. [*Vide* paragraph 16(4) of Part I of the Legislative Assemblies Order, rule 6.3) of Part IV of the Assembly Rules and rule 5(3) of Part III of the Council Rules].

In multi-member constituencies of the Assembly, if the number of candidates is less than the number of seats to be filled up, steps should be taken under rules 6(3) and (7) of Part IV of the Assembly Rules.

(xii) The deposit mentioned in paragraph 5 (e) of this Chapter should be dealt with under rules 2 and 3 of Part III and rules 3(2), (3), (4) and (5) of Part IV of the Assembly Rules and rules 2(2), (3), (4) and (5) of Part III of the Council Rules, whether the forfeiture or the refund of such deposit is concerned.

(xiii) If between the nomination of candidates and the poll, any candidate dies, steps should be taken under rule 6 read with rule 4(3) of Part III of the Assembly Rules for primary elections and for other elections under rule 5 of Part IV of the Assembly Rules and rule 4 of Part III of the Council Rules.

CHAPTER VI

VOTING AND ARRANGEMENTS THEREFOR

General

1. All votes will be given by ballot and no votes will be received by proxy [*vide* rule 5(1) of Part III and rule 6(4) of Part IV of the Assembly Rules and rule 5(4) of Part III of the Council Rules].

2. (i) No person who is not included in the electoral roll for any constituency will be entitled to vote in that constituency.

(ii) No person can vote at any election in any constituency if he is of unsound mind and stands so declared by a competent court.

(iii) No person can vote at any election if he is disqualified from voting.

(iv) No person can vote at any election if he is for the time being undergoing a sentence of transportation, penal servitude or imprisonment. (*Vide* paragraphs 3, 6, 7 and 8 of Part I of the Legislative Assemblies Order, paragraphs 1, 4, 8 and 9 of Part I of the Sixth Schedule to the Act and paragraphs 4, 7, 12 and 13 of Part I of the Legislative Councils Order and Part IV of the Corrupt Practices and Election Petitions Order.)

(v) In respect of the territorial constituencies* of the Assembly and all constituencies of the Council, no person can vote in more than one constituency and if he does so, all his votes will be void. But an elector in the Shillong (Women's) constituency can in a general election vote in that constituency and also in one other territorial constituency in which she may happen to be an elector. (*Vide* paragraph 7 of Part I of the Sixth Schedule to the Act and paragraph 11 of Part I of the Legislative Councils Order.)

3. The voting will be conducted under the symbol system in all constituencies of the Legislative Assembly other than the European, European and Indian Planting, and European and Indian Commerce and Industry constituencies in which, as well as in all constituencies of the Legislative Council, voting by postal ballot shall be followed.

*See paragraph 9 of Chapter I.

VOTING UNDER THE SYMBOL SYSTEM

4. Arrangements for voting and recording of votes on the symbol system will be as prescribed in Part V of the Assembly Rules [*vide* also rule 5(2) of Part III for Primary Election].

(i) *Preliminary Arrangements*

5. As soon as the notification calling upon constituencies to elect members is issued or any earlier orders with electoral programme are received for any elections or bye-elections on symbol system, the Returning Officer should make the following preliminary arrangements:—

(i) As the whole operation will depend upon the actual polling arrangements, which will again depend upon the available staff of officers and clerks, the Returning Officer should first carefully draw up his programme of polling days. The polling days should be so fixed as to enable the Returning Officer to declare the results under rule 6(6) of Part IV of the Assembly Rules and, in elections other than primary elections, to publish them in the Gazette under rule 6(7) of the same Part IV on or before the date so fixed in the notification calling upon constituencies to elect members or so fixed in the electoral programme.

The polling days in a big district like Sylhet or Sibsagar should, if necessary, be so fixed that the staff from one part of the district may supplement that in another. When no extra staff is available from outside, it should be so fixed in each subdivision that, when possible, the same staff may halt in one place and manage the elections of different constituencies covering the same area on succeeding days or where there is no sufficient staff available, the same staff may, after an interval of 3 or 4 days to allow for the journey to other polling stations, manage the elections of the remaining constituencies.

The polling days for Labour constituencies should be fixed on a different date to that for the General or Muhammadan constituencies and that for the Indian Christian constituency on a date different from other elections.

The polling days so fixed should be reported to the Secretary to the Government in the Legislative Department or to the Election Officer, if appointed, so that along with the date for nomination of candidates and scrutiny of nominations, the date or dates, on which a poll will, if necessary, be taken, may also be notified under rules 1(2)(b) of Part III and 2(2)(b) of Part IV of the Assembly Rules. Along with this report, the Returning Officer should also submit his proposals for closing offices including treasuries, where it is necessary for the purposes of the poll.

NOTE.—As far as practicable, holidays, big *hat* days and days of known local celebrations and *Melas* should be avoided in fixing polling days.

(ii) He should draw up a provisional list of polling stations*. Normally one polling station should be selected for not more than 750 voters. In a congested area one station may be fixed for more voters, but ordinarily for not more than 1,200 voters. In a scattered area, a polling station may be selected for less than 750 voters, so that voters may not have to travel an unduly long distance to reach the polling station in time. As far as is practicable, the same polling stations may be fixed for different constituencies covering the same area, so that the same staff may halt at the same station to manage the elections on succeeding days and with the same stamping machines, stationery, etc.

(iii) He should also prepare a provisional list of available officers competent to perform the functions of presiding and polling officers according to instructions† and rules (*vide* rule 2 of Part V of the Assembly Rules). In a minor polling station with not more than 750 voters, one presiding officer and three polling officers may be provided and in a major station with not more than 1,200 voters, one presiding officer and five polling officers may be provisionally fixed. If sufficient officers are not locally available, steps should be taken in good time to borrow officers from neighbouring subdivisions. This provisional list should contain slightly more than the requisite number of officers as, at the time of actual poll, some may be unavoidably absent.

(iv) Steps should be taken to make new ballot boxes or repair old ballot boxes in stock, at the rate of 4 ballot boxes per polling station provisionally fixed under (iii) *plus* 5 per cent. as reserve. Arrangement should also be made for their locks and keys. The slit of the ballot-box should be made conspicuous by painting its border with white paint all round.

NOTE.—The wooden or tin ballot boxes may conveniently be looked after, kept in repair and, in the case of tin boxes, painted to prevent rust every year, while they are in the custody of the Returning Officers, even if there is no election meanwhile. The cost may be met from their Contingent Grant.

(v) An estimate should be made of the number of stamping machines that will be necessary, regard being had to the arrangements for polling days and staff. Usually, stamping machines with one 'letter' will be allotted to all constituencies falling wholly within one subdivision and, on this basis, the estimate may be made and reported to the Secretary to the Government in the Legislative Department or to the Election Officer, if appointed, along with the names of the "letter" or "letters" of stamping machines which were used in the respective constituencies during the last seven years [*vide* rule 6(5) of Part V of the Assembly Rules].

* See paragraph 5 of General Instructions [(6) of Appendix X].

† See (7) of Appendix X.

(vi) The Returning Officer should report his requirement of symbols under rules 5(5) of Part III, 4 (4) of Part IV and 6(2) and (3) of Part V of the Assembly Rules to the Secretary to the Government in the Legislative Department or to the Election Officer, if appointed.

NOTE I.—One complete copy of coloured symbols and five copies of the particular coloured symbols assigned to a candidate will be given to him free of cost. Beyond this number, he should purchase them. The estimate should therefore include copies likely to be purchased. The purchased price has been fixed at two annas per sheet of coloured symbols and one anna per sheet of uncoloured symbols. (Government letter No.2011-20-E1., dated the 13th October 1936, to all Deputy Commissioners). The sale proceeds should be credited to the head “XLVI.—Miscellaneous—Miscellaneous”.

NOTE II.—For official purposes, only coloured symbols will be used. Both uncoloured and coloured symbols will be offered for sale.

(vii) The election forms prescribed in the rules and this Manual will mostly be printed at the Secretariat Press* under the supervision of the Legislative Department, so that the different Returning Officers may indent for these forms to that Department according to necessity and obtain them in time. They should also report the requirements of †General Instructions, ballot papers and tendered ballot papers to the Secretary to the Government in the Legislative Department or to the Election Officer, if appointed.

NOTE.—Estimate for forms should not be excessive, particularly in the case of forms like tendered ballot papers which if unused will be sealed in packets and ultimately destroyed.

(viii) The Returning Officer should forthwith undertake the printing of electoral rolls in force, if the requisite number‡ of rolls is not in stock. Preliminary arrangements may also be made for printing matters like slips to be pasted over the slit in the ballot boxes and any other local notices which the Returning Officer considers to be necessary in the event of an actual poll.

(ix) The Returning Officer should see that he has the requisite stock of stationery, particularly articles like thumb impression sets and brass seals which may not always be available locally; if necessary, preliminary steps should be taken to ensure that in the event of a poll they may be obtained without delay.

(x) The Returning Officer should get himself into touch with the Superintendent of Police for making police arrangements at the polling stations. Preliminary steps should also be taken for peons and chaukidars to supplement police constables, where necessary, in different polling stations and for training them in their respective duties.§

* See paragraph 3 of Chapter XI.

† See (6) of Appendix X.

‡ See Note to paragraph 9 of Chapter III and (3) of Appendix X.

§ See paragraphs 3 and 8, General Instructions [(6) of Appendix X].

(ii) *Final Arrangements*

6. When after the final list of nominations is prepared under paragraph 6(vii) of Chapter V it is definitely known in which particular constituency or constituencies there will actually be a poll, the Returning Officer should issue a general notice calling for objections, if any, to the provisional list of polling stations made by him under paragraph 5(ii) and fixing a date on which he may hear objections and finally decide the list of polling stations. His decisions will be final under rule 2(1) of Part V read with rule 5 of Part II of the Assembly Rules.

7. As soon as the final list of polling stations is ready, notices in Form XI of Appendix XII may be printed locally and published in the manner* prescribed by the Governor in any language or languages as the Returning Officer considers necessary [*vide* rule 2(1) of Part V of the Assembly Rules]. The polling dates and hours, which must be notified meanwhile under rule 1(1) of Part V of the Assembly Rules and which have been embodied in the same notice, may also be similarly published in the manner* prescribed by the Governor.

8. The Returning Officer should also have the slips on slits printed and covers ready for persons voting under rule 19(2)(ii) of Part V of the Assembly Rules.

9. The Returning Officer will also request identifiers under rule 10 of Part V of the Assembly Rules to be present punctually at the respective polling stations.

10. He will then finally select and issue formal letters of appointment to the presiding and polling officers selected for the different polling stations from the provisional list already prepared by him under paragraph 5(iii). Though under the rules there is no assistant presiding officer, the Returning Officer should, at the time of appointing polling officers, authorise one or two of the polling officers of each station to perform the functions of the presiding officer during his absence under rule 2(4) of Part V of the Assembly Rules. In a minor polling station, besides the presiding officer, there should be one polling officer in charge of electoral rolls, another in charge of ballot papers and stamping machines and a third polling officer to perform the duties of the presiding officer during his absence and otherwise assist him. In a major polling station, there should be two polling officers in charge of electoral rolls, and two in charge of ballot papers and stamping machines† and either one of these four or, if necessary, two should be authorised to carry on during the absence of the presiding officer (*vide* rule 9 of Part V of the Assembly Rules).

*See (4) of Appendix X.

†See sketch in the General Instructions [(6) of Appendix X.]

11. In order that the presiding and polling officers may thoroughly understand their respective duties, training classes with a mock demonstration of polling should be held. Before the training classes are actually held the presiding officers should be supplied with the copy of General Instructions to which will be attached Part V of the Assembly Rules and the relevant paragraphs of this Chapter and they may then peruse these beforehand and have their doubts, if any, cleared in the training classes.

The following matters have particular attention and should be stressed in the training classes :—

- (i) The presiding officer and his polling officers should be particularly careful to see that they have received the correct electoral rolls, forms (ballot papers, tendered ballot papers, tendered votes list, list of challenged votes and ballot paper account), symbols, appointment letters including those for polling agents countersigned by the Returning Officer, certificates under rule 18 of Part V of the Assembly Rules, stamping machines, ballot boxes with locks and keys and stationery articles together with thumb impression sets, brass seal and sealing and pasting materials. The poll must not wait or be suspended for want of any of these articles.
- (ii) The presiding officer and the staff should visit the polling station on the day previous to the poll and make all arrangements according to General Instructions and rules 5 and 6 of Part V of the Assembly Rules.

NOTE I.—The polling compartments should be screened with fairly thick cloth or black boards when available, with the exposed bottom part covered with cloth.

NOTE II.—The symbols should be pasted on the top of the ballot boxes. As an additional safeguard, the symbols may also be nailed at the four corners on the wooden boxes and in the case of tin-boxes fastened with nuts and bolts so that they may not drop in transit.

- (iii) The presiding officer should set his watch to correct local time.
- (iv) On the day of the poll, the presiding officer and staff should be at the polling station in good time and start as prescribed under rules 3, 7 and 8 of Part V of the Assembly Rules.

N. B.—It is essential to fix under rule 3(1) at the very commencement of the poll, that voters will be admitted in batches of not more than 5 or 10 at a time, so that not more than a batch of 5 or 10 can claim to be admitted at the last minute under rule 3(2).

- (v) The procedure of voting should be as prescribed by rules 9, 10 and 11 of Part V of the Assembly Rules (see also rules 12, 13 and 15-19).

NOTE I.—It should be particularly remembered that a polling officer is to note nothing on the ballot paper (outer-foil) except by marking it with the stamping machines. Some ballot papers have been rejected in previous elections on account of some polling officers noting the elector's numbers on the outer-foil.

NOTE II.—The penalty for the offence of personation, of which the presiding officer is to warn a suspected voter under rule 16(1), is imprisonment of either description for a term which may extend to one year or fine or both under section 171F read with section 171D of the Indian Penal Code.

(vi) The presiding officer is authorised to go into the polling compartment to prevent any malpractices (*vide* rule 11(2)]. Without interfering with the poll, he should also see that the ballot boxes are kept in the same position and that the symbols and slits are untouched.

(vii) At the close of the poll, the presiding officer should read rule 20 of Part V of the Assembly Rules and make and seal *separate* parcels according to this rule. In some previous elections, unsealed packets were sealed within another sealed cover which was wrong. There must be separate packets and they must be separately sealed according to this rule.

NOTE I.—The packets and the ballot boxes should be carefully sealed so that in transit the seals may not be impaired.

NOTE II. — Stationery (in excess) and stamping machines are not to be sealed. They are to be returned to the Returning Officer personally by the presiding officer.

(viii) The presiding officer will then carefully make his ballot paper account in Form K (*vide* rule 21).

NOTE. The number of ballot papers dealt with under rule 19(2)(ii) are to be separately shown, but not ballot papers under rule 19(2)(i), which should go into the ballot boxes.

(ia) The presiding officer is personally responsible that the ballot boxes with symbols, sealed packets, etc., are returned to the Returning Officer in good condition. The Returning Officer should particularly instruct the presiding officer as to where he should return the boxes, etc. and should arrange for their safe reception and custody till counting.

12. After he has got ready all ballot boxes, stamping machines, symbol, forms including ballot papers and electoral rolls, and stationery, etc., the Returning Officer should fix a date on which the presiding officers and their staff should take delivery of their requirements, together with the certificates under rule 18 and appointment letters of polling agents if received.

NOTE. In multi-member constituencies like Nowgong (North-East), Jorhat (North), Sunamganj, Habiganj (North), Karimganj (East) and Silchar General constituencies, an elector is entitled to have two ballot papers, in Kamrup Sadr (South) General constituency three ballot papers and in Shillong and Jowai Backward Areas constituencies a nominee for more than one woman will get as many ballot papers as he has votes (by proxy). Such an elector of the multi-member constituencies may be employed on duty in a polling station of a constituency in which ordinarily there is one vote for each elector and a nominee in the Shillong or Jowai constituency with more votes than one may also be employed on duty at another station where he is not known, and where his electoral roll is not supplied. The Returning Officers should, therefore, insist upon this information in the applications for certificates under rule 18 and will accordingly add in the certificates the number of ballot papers such electors on duty are entitled to have.

Copies of the certificates under rule 18 should be sent to the presiding officers of the polling stations where they, but for this employment on polling duty, would have voted, so that none else could appear and vote for them there.

13. In the event of a poll being necessary, the Returning Officer should report the date, time and place for the counting of votes in his constituency or constituencies under rule 1(1) of Part VI of the Assembly Rules to the Secretary to the Government of Assam in the Legislative Department or to the Election Officer, if appointed. In suggesting the date, due allowances should be made for any likely delay in the receipt of ballot boxes from district or out-of-the-way polling stations so that all chances of postponement of the counting on account of non-receipt of ballot boxes may, as far as possible, be eliminated [see rule 1(2) of Part VI.] It is not safe to accumulate the counting of votes of many constituencies on one day and the dates should be so fixed that as far as practicable counting at night or after dark may be avoided.

VOTING UNDER THE POSTAL SYSTEM

(i) Preliminary Arrangements

14. As soon as the notification calling upon the constituencies to elect members is issued or any earlier orders with electoral programme are received for any elections or bye-elections under the postal system, the Returning Officer will make the following preliminary arrangements:—

- (i) He should indent to the Legislative Department for forms like nomination papers, and return of election expenses and declarations, along with such forms prescribed in this Manual in Appendix XII as will be printed in the Secretariat Press.*
- (ii) He should have printed the requisite number† of electoral rolls in force, if he has not got them already in stock.
- (iii) He should also report his requirement of stamping machines to the Secretary to the Government in the Legislative Department or to the Election Officer, if appointed (*vide* rule 2 of Part VII of the Assembly Rules and rule 1 of Part IV of the Council Rules).
- (iv) He should take steps to have his ballot box ready [*vide* rule 5(1) of Part VII of the Assembly Rules and rule 4(1) of Part IV of the Council Rules].
- (v) He should report the date, time and place for the counting of votes under rule 9(1) of Part VII of the Assembly Rules and rule 8(1) of Part IV of the Council Rules to the Secretary to the Government in the Legislative Department or to the Election Officer, if appointed, so that they may be notified in time for the printing of ballot papers (*see* paragraph 14 below).

* See paragraph 3 of Chapter XI.

† See Note to paragraph 9 of Chapter III.

(ii) *Final Arrangements*

15. As soon as it is definitely known in which particular constituency or constituencies there will actually be a poll, the Returning Officer should forthwith have the required number of ballot papers in the prescribed form [Appendix I(1), (2), (3) and (4) of the Assembly Rules and Appendix E of the Council Rules] locally printed. For each elector he should have an envelope printed with his (Returning Officer's) official address known to the Post Office and another smaller envelope with the words "For ballot paper only" printed thereon.

A covering letter in the following form may also be printed for each elector :—

"Sir,
Madam,

I am sending herewith your ballot paper. Please record your vote according to instructions on the back of the ballot paper, but do not sign your name or write anything or put your electoral number or name seal or any seal either on the front and back side of the ballot paper, which in that case will be rejected having borne an identifying mark. After recording your vote, please place the ballot paper inside the smaller envelope bearing the words "For ballot paper only" and close it and then put this closed envelope within the bigger envelope bearing my address and post it to me at your cost.

Your obedient servant,

(Official designation)

and

Returning Officer

Constituency,

Assam Legislative Assembly
Council.

16. Steps should be taken to have stamping machines in time before the date of employment.

17. When the date for closure of poll and the date of counting of votes are fixed and notified under rules 2(2)(b) of Part IV and 9(1) of Part VII of the Assembly Rules and rules 1(2)(b) of Part III and 8(1) of Part IV of the Council Rules, the ballot paper should be sent with the covering letter and the two envelopes mentioned in paragraph 13 and the voting should proceed as prescribed in Part VII of the Assembly Rules and Part IV of the Council Rules.

NOTE I.—If a Returning Officer considers it convenient, he may put the elector's electoral number on the bigger and outer envelope containing his (Returning Officer's) address but not on the smaller envelope meant to contain the ballot paper only.

NOTE II.—Illiterate persons or *pardanashin* ladies may either appear before a magistrate under rule 3(2) of Part VII of the Assembly Rules or rule 2(2) of Part IV of the Council Rules or take the assistance of others in placing the cross-marks in the ballot papers against the names of the candidates. Their covering letters may then be signed in the manner indicated in the definition given in rule 2(g) of Part IX and rule 1(d) of Part X of the Assembly Rules and rule 1(d) of Part VI of the Council Rules.

NOTE III.—When the ballot papers are received back, the covering letters of the electors together with the outer envelopes may be filed and preserved till the expiry of the period during which an election petition may be presented, and the closed envelopes containing the ballot papers should, as prescribed in the rule, be deposited in the securely locked ballot box.

NOTE IV.—The Returning Officer should send only one ballot paper to the factory, firm, corporation or Hindu joint family to the address of its office and not to the nominee or nominees thereof (*vide* proviso to rule 2 of Part VII of the Assembly Rules).

NOTE V.—In preparing the ballot paper account under rule 8 of Part VII of the Assembly Rules and rule 7 of Part IV of the Council Rules, the form in Appendix K of the Assembly Rules may be used *mutatis mutandis* as no form has been prescribed.

CHAPTER VII

COUNTING OF VOTES

1. The dates, time and places for the counting of votes will be notified under rules 1(1) of Part VI and 9(1) of Part VII of the Assembly Rules and rule 8(1) of Part IV of the Council Rules. As soon as the dates, etc. are notified, notice thereof in writing should be given by the Returning Officer to all candidates and the election agents, unless the candidates have appointed themselves as their election agents.

NOTE.—Unless there is anything to the contrary in the notification, local time will be followed.

2. At the time of the actual counting, each candidate and either his election agent or one representative of each candidate authorised in writing by the candidate, can be present as well as the persons appointed by the Returning Officer to assist him in the counting. [*Vide* rules 5(2) of Part III, 6(5) of Part IV, 2(1) of Part VI and 9(2) of Part VII of the Assembly Rules and rules 5(5) of Part III and 8(2) of Part IV of the Council Rules].

NOTE.—None but Government servants should ordinarily be appointed to assist the Returning Officer in the counting of votes and even amongst Government servants none should be appointed to assist, who is on account of relationship or other known grounds, is interested in the results of the election.

Counting of Votes Under The Symbol System

3. On the day previous to the counting of votes, the Returning Officer should personally verify that all the ballot boxes have been received. If not, immediate steps should be taken to secure them in time. If on account of any unforeseen circumstances all ballot boxes have not arrived before the time fixed in the notification or if, for any other unavoidable cause, the counting cannot be proceeded with at the time fixed on the appointed date, steps should be taken under rule 1(2) of Part VI of the Assembly Rules to secure a postponement.

4. When all is ready for the counting of votes, the Returning Officer should conduct the counting in strict compliance with rule 3 of Part VI of the Assembly Rules.

NOTE.—For the rejection of ballot papers, *see* rule 5 of Part VI of the Assembly Rules. The word “Rejected” will be endorsed by the Returning Officer on all rejected ballot papers, [*Vide* rule 3(b).]

5. On the completion of the counting of votes, the results should be declared forthwith under rule 4 of Part VI of the Assembly Rules.

NOTE I.—In the case of an equality of votes, steps are to be taken under paragraph 17 of Part I of the Legislative Assemblies Order. The Returning Officer may himself draw lots to select the candidate or candidates. The manner in which the lot is to be drawn will be decided by the Returning Officer and his decision is final.

NOTE II.—If the counting is conducted carefully, there should be no occasion for a recount, which should be held only on good grounds (*see* first proviso to rule 4).

NOTE III.—The second proviso to rule 4 is important for those constituencies in which a seat is reserved for the members of the Scheduled Castes. One of the Scheduled Caste candidate, duly elected at the Primary Election, should first be declared elected to the reserved seat, having received the largest number of valid votes amongst such Scheduled Caste candidates elected at the Primary Election. The remaining candidates of the penal of Scheduled Caste candidates elected at the Primary Election and the candidates for the non-reserved seat or seats will all be eligible for the non-reserved seat or seats. If one of them has received the largest number of valid votes, he should be declared elected for the non-reserved seat or seats [*vide* also Note to paragraph 6(x) of Chapter V].

6. The Returning Officer should wire to the Secretary to the Government of Assam in the Legislative Department the result of the counting of each constituency as soon as the counting is over. He should also without delay submit a written report together with the permanent address of members elected to the officers concerned and to the Election Officer, if appointed, and take steps to publish the results in the Gazette over his signature under rule 6(7) of Part IV of the Assembly Rules.

7. The Returning Officer should then verify the ballot paper accounts submitted by the presiding officers under rule 6 of Part VI of the Assembly Rules.

NOTE.—For the purpose of this verification he can only open the packets containing the unused ballot papers, tendered votes' lists and spoilt ballot papers out of the sealed packets sent by the presiding officers and no other packets.

8. The Returning Officer should finally prepare and certify his return under rule 7 of Part VI of the Assembly Rules and ultimately forward it to the Secretary to the Government in the Legislative Department [*vide* rule 8(1) of Part VI of the Assembly Rules].

NOTE I.—This return should be carefully prepared as the candidate or his agents will be entitled to take copy or an extract thereof free of cost and others on payment of the prescribed fee [*see* rule 8(2) of Part VI].

NOTE II.—A certificate in the following form may be appended to the return over the signature of the Returning Officer.

“Certified that the above return has been checked by me personally and found correct”.

9. After the counting is over, the Returning Officer should also record an order of forfeiture of deposit in case any candidate has forfeited it under rules 2(2) and (3) of Part III (*see* also rule 3) and 3(3) and (4) of Part IV of the Assembly Rules and communicate the order to the candidate concerned.

NOTE.—The deposits forfeited should be credited to the head “XLVI.—Miscellaneous—Miscellaneous fees, fines and forfeitures”.

Counting of Votes Under The Postal System

10. At the time and place fixed for the counting on the appointed date, the Returning Officer should conduct the counting in strict compliance with rule 9(2) of Part VII of the Assembly Rules and rule 8(2) of Part IV of the Council Rules.

NOTE I.—*See* rules 10(1) and (2) Part VII of the Assembly Rules and 9 (1) and (2) of Part IV of the Council Rules for ballot papers to be rejected. The word “Rejected” will be endorsed by the Returning Officer on such rejected ballot papers, *vide* rules 5(2) and 9(4) (a) of Part VII of the Assembly Rules and rules 4(2) and 8(4) (a) of Part IV of the Council Rules.

11. On the completion of the counting of votes, the results should be declared forthwith under rule 9(4)(b) of Part VII of the Assembly Rules and rule 8(4)(b) of Part IV of the Council Rules.

NOTE I.—In the case of an equality of votes steps should be taken under paragraph 17 of Part I of the Legislative Assemblies Order and paragraph 19 of Part I of the Legislative Councils Order. As in the case of counting under the symbol system, the Returning Officer may draw lots and so select the candidate or candidates. The Returning Officer's decision as to the form of lottery will be final.

12. The Returning Officer should wire the result of the counting of each constituency as soon as the counting is over to the Secretary to the Government in the Legislative Department and should without delay also submit a written report together with the permanent address of the members elected to the different officers concerned and to the Election Officer, if appointed. He should also take steps to publish the results in the Gazette over his signature under rule 6(7) of Part IV of the Assembly Rules and rule 5 (7) of Part III of the Council Rules.

13. The Returning Officer should verify his ballot paper account under rule 9(4) (c) of Part VII of the Assembly Rules and rule 8(4) (c) of Part IV of the Council Rules.

NOTE.—For the purpose of this verification he can only open the packets containing unused ballot papers, spoilt ballot papers and tendered ballot papers sealed by him on the previous day and no other packets.

14. The Returning Officer should then prepare and certify his return under rules 9(4) (d) of Part VII of the Assembly Rules and 8(4) (d) of Part IV of the Council Rules and ultimately forward it to the Secretary to the Government in the Legislative Department under rules 11 of Part VII of the Assembly Rules and 10 of Part IV of the Council Rules.

NOTE.—*See* Notes I and II to paragraph 8 on similar subjects, which may be followed.

15. After the counting is over, the Returning Officer should record an order of forfeiture of deposit if any candidate has forfeited his deposit under rules 3(3) and (4) of Part IV of the Assembly Rules and 2 (3) and (4) of Part III of the Council Rules and communicate the order to the candidate concerned.

NOTE.—The deposit forfeited should be credited to the head “XLVI.—Miscellaneous—Miscellaneous fees, fines and forfeitures”.

CHAPTER VIII

RETURN OF ELECTION EXPENSES AND DECLARATIONS OF THE CANDIDATE AND HIS ELECTION AGENT

1. The election agent* of every candidate is required by law to keep separate and regular books of account for every election including a primary election. (*Vide* paragraph 4 of Part II of the Corrupt Practices and Election Petitions Order, rules 2, 6 and 7 of Part VIII of the Assembly Rules and rule 1 of Part V of the Council Rules). If he fails to keep such accounts, he is punishable under section 171 I of the Indian Penal Code. The incurring of certain unauthorised expenditure is also punishable under section 171 H of the Indian Penal Code.

2. The books of account should contain all particulars required in the prescribed forms of the return of election expenses and of declarations (*vide* Appendix M of the Assembly Rules and Appendix F of the Council Rules).

3. These forms of return of election expenses and of declarations will be available for sale in the offices of the Returning Officers at the rate of one anna per form (letter No. 2053-62-El., dated the 20th October 1936, to all Deputy Commissioners concerned).

NOTE.—The sale proceeds should be credited to the head “XLVI.—Miscellaneous—Miscellaneous”.

Primary Election

4. In a primary election, the return of election expenses and of declarations in respect of candidates who were not elected to the panel of candidates should be lodged with the Returning Officer within thirty-five days from the date of declaration of the result of the primary election according to rules 3 and 4 of Part VIII of the Assembly Rules.

NOTE I.—There is a prescribed form of declarations but not of the election expenses. If the candidate likes, he may use the same form (Appendix M of the Assembly Rules) in primary election also.

NOTE II.—An illiterate person may, instead of signing, authenticate by making a mark [*vide* rule 8(3) of this part of the Assembly Rules].

5. The return of election expenses and declarations of other candidates who were elected to the panel of candidates will be lodged along with their election expenses at the final election within thirty-five days from the publication of the result of final election in the Gazette. The prescribed form (Appendix M) will be used.

* See paragraph 5 (d) of Chapter V.

Other Elections

6. The returns of election expenses and declarations should be lodged with the respective Returning Officers within thirty-five days from the publication of the result of elections in the Gazette, according to rule 8 of Part VIII of the Assembly Rules and rule 2 of Part V of the Council Rules, read with paragraphs 5(1) and (3) of Part II of the Corrupt Practices and Election Petitions Order.

Returning Officer's Duties

7. (i) On receiving the return of election expenses and declarations, the Returning Officer should endorse on it the date of receipt and satisfy himself that it is submitted according to the prescribed rules.

(ii) He should publish a notice in Form XII of Appendix XII in his office Notice Board and in the Gazette, but the notice regarding candidates who were *not* elected at the primary election (*vide* paragraph 4 above) need not be published in the Gazette.

NOTE.—Any person paying a fee of rupee one may inspect this return at the time and place stated in the notice, and on payment of a fee of rupees two may obtain a copy of the return or any part thereof (*vide* order * of the Governor of Assam, dated the 21st October 1936).

(iii) He should also report the date on which each return has been lodged together with the names of the candidate and his election agent and the description of the particular election to the Secretary to the Government, Legislative Department, or to the Election Officer if appointed. This report is required by Government for maintenance of the record prescribed by rule 10 of Part VIII of the Assembly Rules and rule 4 of Part V of the Council Rules.

(iv) If the return of election expenses and declarations is not submitted within the prescribed time the Returning Officer shall forthwith report this fact to the Secretary to the Government, Legislative Department, or to the Election Officer, if appointed, within 15 days from the date by which the return of election expenses of candidates ought to have been lodged with him [*vide* rule 8(5) of Part VIII of the Assembly Rules and rule 2(5) of Part V of the Council Rules].

NOTE.—For penalties for non-submission of the return within the prescribed time *see* section 69(1) (f) of the Act and paragraphs 5 and 7 of Part IV of the Corrupt Practices and Election Petitions Order.

CHAPTER IX

ELECTION PETITIONS AND INQUIRIES

1. No election, primary or final, can be called in question except by an election petition. (*Vide* rules 1 and 3 of Part IX of the Assembly Rules for primary election and paragraph 2 of Part III of the Corrupt Practices and Election Petitions Order for all other elections).

* Copy forwarded to all Returning Officers with the late Appointment and Political Department Memo. No. 2117-43-El., dated the 30th October 1936.

2. Part IX of the Assembly Rules will regulate all election petitions and their inquiries about primary elections, and Part III of the Corrupt Practices and Election Petitions Order read with Part X of the Assembly Rules and Part VI of the Council Rules covers other elections. The following points deserve attention :—

In primary election

In other election

- | | |
|--|--|
| <p>(i) An election petition may be presented :—</p> <p>(a) against an elected candidate.</p> <p>(b) by any candidate</p> <p>(c) within two days from the date on which the result of the primary election was declared</p> <p>(d) on the ground of any illegality or irregularity or corrupt practice.
[Vide rule 4 (1) of Part IX of the Assembly Rules].</p> | <p>(i) An election petition may be presented :—</p> <p>(a) against any returned candidate.</p> <p>(b) by any candidate or elector or by any officer empowered by the Governor.</p> <p>(c) within 14 days from the date on which the notice of the return of election expenses and declaration of the returned candidate was published in the Gazette and, in the case of the officer empowered by the Governor, within 30 days from that date.</p> <p>(d) on any ground
[Vide paragraph 3 of Part III of the Corrupt Practices and Election Petitions Order and rules 2(1), (3) and (4) of Part X of the Assembly Rules and 2(1), (3) and (4) of the Council Rules].</p> |
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NOTE I.—See definition of “elector” relating to a Commerce and Industry or Planting constituency of the Assembly in paragraph 3(1) of Part III of the Corrupt Practices and Election Petitions Order.

NOTE II.—If there is any reasonable ground for thinking that there has been a large number of cases of undue influence* or bribery* the Returning Officer will forthwith report full facts with available evidence to the Secretary to the Government, Legislative Department through the Deputy Commissioner and the Commissioner for orders and, if necessary, for empowering a particular officer to present an election petition.
[See (b) above].

- (ii) An election petition may be personally filed by the candidate making the petition or by a person authorised by him in writing before the District Magistrate of the district concerned (*Vide* rule 5 of Part IX of the Assembly Rules.)
- (ii) An election petition may be presented to the Governor or to the Secretary to the Government of Assam in the Legislative Department or to the Commissioner of Divisions* by the person making the petition or by any person authorised by him in writing or by registered post. [*Vide* rule 2(2) of Part X of the Assembly Rules and rule 2(2) of Part VI of the Council Rules.]

NOTE.—On receiving the petition, the date of its reception should be endorsed on it.

- (iii) The petition should contain particulars prescribed in rule 6 of Part IX of the Assembly Rules.
- (iii) The petition should contain particulars prescribed in rules 3 and 4 of Part X of the Assembly Rules and of Part VI of the Council Rules read with paragraph 3(2) of Part III of the Corrupt Practices and Election Petitions Order.
- (iv) A deposit of Rs.250 (Rupees two hundred and fifty) is required before the petition is presented. (*Vide* rule 7 of Part IX of the Assembly Rules.)
- (iv) A deposit of Rs.1,000 (one thousand) is required (*vide* rule 5 of Part X of the Assembly Rules and of Part VI of the Council Rules).
- (v) The petition will be dealt with and inquiry held by the District Magistrate under rules 9, 10 and 11 of Part IX of the Assembly Rules. The inquiry including delivery of judgment must be finished within 10 days from the date of presentation of the petition (*vide* rule 8).
- (v) The petition will be dealt with and inquiry held by the Commissioners appointed by the Governor under rules 6 to 12 of Part X of the Assembly Rules and of Part VI of the Council Rules read with paragraph 4 of Part III of the Corrupt Practices and Election Petitions Order.

*. See Notification No. 398-L., dated the 21st June 1940 [(8) of Appendix X].

- (vi) The judgment of the District Magistrate should deal with different matters in accordance with rules 12, 13 and 14 of Part IX of the Assembly Rules so far as each petition is concerned.
- (vi) The report of the Commissioners should deal with different matters in accordance with paragraphs 7 to 10 of Part III of the Corrupt Practices and Election Petitions Order read with paragraph 4 of the Government of India (Provincial Legislatures) (Miscellaneous Provisions) Order 1936.*

- (vii) The District Magistrate on delivery of his judgment will forthwith send one copy thereof to the Secretary to the Government, Legislative Department and another to the Returning Officer concerned who will take steps as prescribed under rule 13(4) of Part IX of the Assembly Rules.
- (vii) After the report is signed, the Commissioners will forthwith send it to the Secretary to the Government, Legislative Department, who will obtain the orders of the Governor and have the report and orders published in the Gazette [*vide* paragraph 8(3) of Part III of the Corrupt Practices and Election Petitions Order].

If a fresh primary election becomes necessary, the Returning Officer should report to the Secretary to the Government, Legislative Department or to the Election Officer if appointed.

* See Appendix IV (B).

CHAPTER X

SAFE CUSTODY, PRESERVATION AND INSPECTION
AND COPY OF ELECTION PAPERS

1. Part XII of the Assembly Rules and Part VIII of the Council Rules prescribe the rules for the custody and preservation of all election papers including packets sealed during elections.

NOTE I.—The date of receipt of the documents in the Record Room or the office of the Officer in whose custody they are to remain should be endorsed on the documents.

NOTE II.—See rule 1(2) of Part XII of the Assembly Rules for the sealed packets relating to Primary Elections.

NOTE III.—Copies of final electoral rolls mentioned in rule 4(3) of Part XII of the Assembly Rules and of Part VIII of the Council Rules are permanent records and they should be carefully authenticated under rule 4(4) of Part XII of the Assembly Rules and of Part VIII of the Council Rules, packed, indexed and preserved.

NOTE IV.—One complete copy of the final electoral roll of each constituency and the election petitions, proceedings and report of Election Commissioners thereon are to be sent to and preserved in the Legislative Department. They should be carefully arranged, packed and despatched under the personal supervision of a gazetted officer.

NOTE V.—All such documents should be despatched by registered post with acknowledgment receipt.

2. Rules 2 and 4(8) of Part XII of the Assembly Rules and of Part VIII of the Council Rules prescribe how the different documents are to be dealt with during the period of custody.

NOTE I.—The sealed packets of counted ballot papers, rejected ballot papers, tendered ballot papers and the counterfoils of the ballot papers cannot be opened, inspected or produced except under the order of a competent court or of Commissioners appointed to try an election petition.

NOTE II.—The fees for inspection and taking copies of sealed packets open to public inspection under rule 2 of Part XII of the Assembly Rules and of Part VIII of the Council Rules have been prescribed under Notification No.737-El., dated the 19th February 1937*.

3. Such papers, certificates, etc., as are not mentioned in Part XII of the Assembly Rules and Part VIII of the Council Rules should be kept on the connected files of the Returning Officer and preserved under the usual rules. If there is an election petition, they should not be destroyed till the completion of the inquiry.

CHAPTER XI

MISCELLANEOUS

Budget

1. The amount required for election charges will be allotted in the budget under head "25.—General Administration—B—Legislative Bodies—I—Election Charges". Paragraph 110-A of Chapter 8 of the Assam Audit Manual prescribes the charges that are appropriately adjustable under this head.

NOTE I.—Though all necessary expenses for the purpose of holding elections must be incurred, care must be taken to prevent avoidable expenditure.

NOTE II.—For travelling allowance of officers see also instructions of the Government in (10) of Appendix X.

*See (9) of Appendix X.

Establishment

2. Elections are an ordinary incident of administration and except in General Elections, there should be no necessity for the entertainment of any extra temporary staff. When temporary staff are considered essential, they will be provided mainly to assist the regular staff in the different offices. In the event of any temporary staff being necessary, proposals should be submitted by district officers to the Commissioner, who will scrutinise them and forward his recommendations to the Government for necessary sanction.

Forms

3. Except the forms of electoral rolls which will be printed locally, the ballot papers (tendered and ordinary), all other forms shown in the Electoral Rules (Appendices E, I, J, K and M of the Assembly Rules and Appendices D and F of the Council Rules) and the forms prescribed in this Manual except No. XI will generally be printed at the Secretariat Press under the supervision of the Legislative Department. The different Returning Officers may indent for and obtain these forms from that Department in time according to necessity. Returning Officers may, however, print these forms locally if directed to do so by the Legislative Department.

Printing

4. Whenever any local printing becomes necessary, tenders should be called for from local presses by the Deputy Commissioners or Subdivisional Officers. In the case of any large printing orders, agreements should be duly executed by the selected press or presses, undertaking to execute the works at the sanctioned rates and on the approved conditions and to deliver the printed matter on or before a fixed date, failing which the press or presses would unconditionally forfeit the work and all claims to any compensation.

Correspondence

5. All correspondence in connection with elections should be dealt with promptly. The Subdivisional Officers should ordinarily write through their District Officers, but in case of emergency they, as Returning Officers, may address the Government direct, sending a copy to their District Officers. Returns and statements, etc., relating to elections should be submitted direct to the Secretary to the Government, Legislative Department or to the Election Officer, if appointed, by all Returning Officers. In important matters relating to elections, the District Officers should keep the Commissioner informed.

6. At the time of a General Election, all telegrams to the Government should be addressed to "Elections, Shillong".

7. An account of saleable forms such as return of election expenses and declarations and symbols, should be kept in the register of saleable forms maintained in each office. The final

account of such forms and symbols should be forwarded to the Secretary to the Government, Legislative Department or to the Election Officer, if appointed, after the elections are over. The forms should, as usual, be accounted for in the register of forms.

8. The electoral rolls for the Assembly will ordinarily remain in force for 5 years and those for the Council for 3 years (*vide* paragraphs 1 and 2 of Chapter III). A general election of the Assembly will normally take place after the expiry of 5 years and triennial elections of the Council in every third year (*vide* paragraphs 1 and 2 of Chapter II). Proper steps for the preparation of rolls may be taken in good time (say six months) before the expiry of these periods of 5 years and 3 years for the general and triennial elections. The relevant files may be kept pending in office till the new rolls and elections are completed.

CHAPTER XII

GLOSSARY

Act ...	...	...	The Government of India Act, 1935 (<i>vide</i> preambles to Orders in Council and Introductory rule 3 of the Council and the Assembly Rules).
Agent	...	...	<i>Vide</i> Part III of the Corrupt Practices and Election Petitions Order.
Anglo-Indian	...	...	<i>Vide</i> paragraphs 26 of Part I of the First Schedule to the Act, 19 of the Fifth Schedule to the Act, 13 of Part I of the Sixth Schedule to the Act, 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Backward areas	...	...	<i>Vide</i> paragraph 19 of the Fifth Schedule to the Act and paragraphs 6 to 10 of Part IX of, and Part VII of the Ninth Schedule to, the Legislative Assemblies Order.
Backward tribes	...	...	Ditto. <i>See</i> also Part V of the Thirteenth Schedule to the Legislative Assemblies Order.
Ballot box	...	...	<i>Vide</i> rules 6 and 7 of Part V and rules 5(1) of Part VII of the Assembly Rules and rule 4(1) of Part IV of the Council Rules.
Bengali year	...	...	<i>Vide</i> paragraph 11(1) of Part IX of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.

Building	...	...	<i>Vide</i> paragraph 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Bribery	...	...	<i>Vide</i> paragraph 1 of Part I of the First Schedule to the Corrupt Practices and Election Petitions Order.
British India	...	...	<i>Vide</i> section 311 of the Act.
Candidate	...	...	<i>Vide</i> paragraph 1 of Part III of the Corrupt Practices and Election Petitions Order and rule 1 of Part III, rule 2 of Part IV, rule 2 of Part IX and rule 1 of Part X of the Assembly Rules and rule 1 of Parts III and VI of the Council Rules.
Cantonment	...	...	<i>Vide</i> paragraph 13 of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Challenged votes and Challenged votes list		}	<i>Vide</i> rule 16 of Part V of the Assembly Rules, read with section 171D and 171F of the Indian Penal Code.
Commerce	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order.
Constituency	...		Ditto ditto.
Corrupt practice	...	...	<i>Vide</i> paragraph 1 of Part III of the Corrupt Practices and Election Petitions Order and rule 2(e) of Part IX of the Assembly Rules.
Election	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order, paragraph 3 of Part I of the Corrupt Practices and Election Petitions Order and Chapter II of this Manual.
Election agent	...	...	<i>Vide</i> Part II of the Corrupt Practices and Election Petitions Order and rule 2(5) of Part IV and rule 1(3) of Part III of the Assembly Rules and rule 1(5) of Part III of the Council Rules.

Election petition	...	<i>Vide</i> Part III of the Corrupt Practices and Election Petitions Order, Parts IX and X of the Assembly Rules and Part VI of the Council Rules.
European	...	<i>Vide</i> paragraph 26 of Part I of the First Schedule to the Act, paragraph 19 of the Fifth Schedule to the Act, paragraph 13 of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
European control	...	<i>Vide</i> rule 17 of Part I of the Assembly Rules.
Excluded areas	...	<i>Vide</i> section 91 of the Act and paragraph 2 and the Schedule to the Government of India (Excluded and Partially Excluded Areas) Order, 1936.
Executive Council	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Councils Order.
Factory	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order.
Federation	...	<i>Vide</i> section 5 of the Act.
Federated State	...	<i>Vide</i> section 6(8) of the Act.
Federal Court	...	<i>Vide</i> sections 200 and 203 of the Act and paragraph 2(f)(iv) of Part VII of the Legislative Councils Order.
Federal Legislature	...	<i>Vide</i> Sections 18 and 316 of the Act, section 63 of the Ninth Schedule to the Act and sub-paragraph to paragraph 6 of Part IV of the Corrupt Practices and Election Petitions Order.
Gazette	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order and Introductory rule 3 of the Assembly Rules and of the Council Rules.
High Court	...	<i>Vide</i> sections 219 and 311(2) of the Act and paragraph 2(f)(iv) of Part VII of the Legislative Councils Order.
House	...	<i>Vide</i> paragraph 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.

India	...	...	<i>Vide</i> section 311(1) of the Act.
Indian Christian	...	...	<i>Vide</i> paragraph 26(1) of Part I of the First Schedule to the Act, paragraph 19 of the Fifth Schedule and paragraph 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Indian State	...	...	<i>Vide</i> section 311(1) of the Act.
In his (Governor's) individual judgment.			<i>Vide</i> section 50 of the Act.
In his (Governor's) discretion		Ditto	ditto.
Interpretation	...	...	<i>Vide</i> rule 5 (Introductory) and rule 3 of Part I of the Assembly Rules and of the Council Rules.
Judicial Commissioner's Court.			<i>Vide</i> section 219 of the Act and paragraph 2(f) (iv) of Part VII of the Legislative Councils Order.
Landlord	...	...	<i>Vide</i> paragraph 11(1) of Part IX of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Law (Provincial)	...	...	<i>Vide</i> section 311(2) of the Act.
Legislature	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Councils Order.
Literate	...	...	<i>Vide</i> paragraph 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Local Government	...	...	<i>Vide</i> section 311(2) of the Act.
Local rate	...	...	<i>Vide</i> paragraph 11(1) of Part IX of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Member	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order.
Middle School Leaving Certificate Examination,			<i>Vide</i> paragraph 4 of Part IX of the Sixth Schedule to the Act and rule 16 of Part I of the Assembly Rules

Mining	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order.
Mine	...	...	Ditto ditto.
Minister	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Councils Order.
Native of India	...	...	<i>Vide</i> paragraph 26(1) Part I of the First Schedule to the Act.
Oath	...	...	<i>Vide</i> paragraph 3 of Part I of the Corrupt Practices and Election Petitions Order.
Official mark	...	...	<i>Vide</i> rules 6(4) and(5) and 9(3) of Part V and rule 2 of Part VII of the Assembly Rules and rule 1 of Part IV of the Council Rules.
Office of profit	...	...	<i>Vide</i> sections 69(1)(a) and (4) and 307 of the Act.
Partially Excluded Areas			<i>Vide</i> section 91 of the Act and paragraph 2 and the Schedule to Government of India (Excluded and Partially Excluded Areas) Order, 1936.
Pension	...	...	<i>Vide</i> section 311(2) of the Act.
Person	...	...	<i>Vide</i> paragraph 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Pleader	...	...	<i>Vide</i> section 311(2) of the Act.
Polling agent	...	...	<i>Vide</i> rule 3(1) (a) of Part V of the Assembly Rules and paragraphs 11(i) and 12 of Chapter VI of this Manual.
Polling officer	...	...	<i>Vide</i> rules 2(2), (3) and (4) of Part V of the Assembly Rules and paragraphs 5(iii), 10 and 11 (i) and (v) of Chapter VI of this Manual.
Preparation	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order.
Prescribed	...	...	<i>Vide</i> paragraph 19 of the Fifth Schedule and paragraph 13(1) of Part I of the Sixth Schedule to the ¹ Act, paragraph 2(1) of Part I ₂ of the

Legislative Assemblies Order and of the Legislative Councils Order and paragraph 3(1) of Part I of the Corrupt Practices and Election Petitions Order.

Presiding officer	...	<i>Vide</i> rule 2(2) of Part V of the Assembly Rules and paragraphs 5 (iii), 10, 11 and 12 of Chapter VI of this Manual.
Previous Bengali year	...	<i>Vide</i> paragraph 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Previous financial year		Ditto ditto.
Primary election	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order, rule 2 of Part IX of the Assembly Rules and paragraph 2(2) of Part I of the Corrupt Practices and Election Petitions Order.
Provincial Act	...	<i>Vide</i> section 311(2) of the Act.
Public notification	...	Ditto ditto.
Qualified company	...	<i>Vide</i> paragraphs 13(1)(c) and (2) and 14(1)(d) and (2) of Part IX of the Legislative Assemblies Order.
Qualifying tea gardens		<i>Vide</i> paragraph 19(2) of Part IX of the Legislative Assemblies Order.
Qualifying tribe or caste.		<i>Vide</i> paragraphs 22(1) and (2) of Part IX of the Legislative Assemblies Order.
Registering Authority	...	<i>Vide</i> rule 5 of Part I and Appendix A of the Assembly Rules and rule 5 of Part I and Appendix A of the Council Rules.
Rent	...	<i>Vide</i> paragraph 11(1) of Part IX of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.

Residence	...	...	<i>Vide</i> paragraph 1 of Part IX of the Sixth Schedule to the Act, paragraph 23 of Part IX of the Legislative Assemblies Order and paragraph 1 of Part VII of the Legislative Councils Order.
Return of election expenses.			<i>Vide</i> paragraph 5 of Part II of the Corrupt Practices and Election Petitions Order and rules 3, 4 and 8 of Part VIII of the Assembly Rules and rule 2 of Part V of the Council Rules and Chapter VIII of this Manual.
Returned candidate	...		<i>Vide</i> paragraph 1 of Part III of the Corrupt Practices and Election Petitions Order.
Returning Officer	...		<i>Vide</i> paragraph 21(2) of Part I of the Legislative Assemblies Order, Part II of the Assembly Rules and of the Council Rules and Chapter IV of this Manual.
Revising Authority	...		<i>Vide</i> rules 26 of Part I of the Assembly Rules and 17 of Part I of the Council Rules.
Rules	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order and paragraph 3(1) of Part I of the Corrupt Practices and Election Petitions Order.
Ruler of an Indian State			<i>Vide</i> section 311(1) of the Act.
Scheduled Castes	...		<i>Vide</i> paragraphs 26(1) of Part I of the First Schedule, 19 of the Fifth Schedule, and 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2 and Part VIII of the Schedule to the Government of India (Scheduled Castes) Order, 1936.
Seat	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order.
Seat of the same communal description.	}		<i>Vide</i> paragraph 2(2) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order read with paragraph 12 of the Fifth Schedule to the Act and paragraph 16 of Part I of the Legislative Councils Order.
Seat of the same class			

Shillong	...	...	<i>Vide</i> paragraph 5 of Part IX of the Legislative Assemblies Order and paragraph 5 of Part VII of the Legislative Councils Order.
Sign	...	...	<i>Vide</i> paragraph 3(1) of Part I of the Corrupt Practices and Election Petitions Order and rules 8(3) of Part VIII, 2 of Part IX and 1 of Part X of the Assembly Rules and rules 2(3) of Part V and 1 of Part VI of the Council Rules.
Small Town	...	...	<i>Vide</i> paragraph 11(1) of Part IX of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order and of the Legislative Councils Order.
Special constituency	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Assemblies Order.
Symbol	...	...	<i>Vide</i> rule 2(6) of Part IV and Appendix F of the Assembly Rules.
Tea estate	...	...	<i>Vide</i> paragraph 12(3) of Part IX of the Legislative Assemblies Order.
Tendered ballot paper			<i>Vide</i> rule 15 of Part V and Appendix H and rule 6 of Part VIII of the Assembly Rules, and rule 5 of Part IV of the Council Rules.
Tendered votes	...	...	<i>Vide</i> rule 15 of Part V of the Assembly Rules.
Tendered votes list	...	...	Ditto and Appendix I of the Assembly Rules.
Territorial constituency			<i>Vide</i> paragraph 13(1) of Part I of the Sixth Schedule to the Act and paragraph 2(1) of Part I of the Legislative Assemblies Order.
Total income	...	...	<i>Vide</i> paragraph 2(1) of Part I of the Legislative Councils Order.
Undue influence	...	...	<i>Vide</i> paragraph 2 of Part I of the First Schedule to the Corrupt Practices and Election Petitions Order.

APPENDIX I

EXTRACTS FROM THE GOVERNMENT OF
INDIA ACT, 1935

* * * *

46.—(1) Subject to the provisions of the next succeeding section with respect to Berar, the following shall be Governors' Provinces, that is to say, Madras, Bombay, Bengal, the United Provinces, the Punjab, Bihar, the Central Provinces and Berar, Assam, the North West Frontier Province, Orissa, Sind, and such other Governors' Provinces as may be created under this Act.

(2) Burma shall cease to be part of India.

(3) In this Act the expression "Province" means, unless the context otherwise requires, a Governor's Province, and "Provincial" shall be construed accordingly.

* * * *

60.—(1) There shall for every Province be a Provincial Legislature which shall consist of His Majesty, represented by the Governor, and—

(a) in the Provinces of Madras, Bombay, Bengal, the United Provinces, Bihar and Assam, two Chambers;

(b) in other Provinces, one Chamber.

(2) Where there are two Chambers of a Provincial Legislature, they shall be known respectively as the Legislative Council and the Legislative Assembly, and where there is only one Chamber, the Chamber shall be known as the Legislative Assembly.

61.—(1) The composition of the Chamber or Chambers of the Legislature of a Province shall be such as is specified in relation to that Province in the Fifth Schedule to this Act.

(2) Every Legislative Assembly of every Province, unless sooner dissolved, shall continue for five years from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly.

(3) Every Legislative Council shall be a permanent body not subject to dissolution, but as near as may be one-third of the members thereof shall retire in every third year in accordance with the provision in that behalf made in relation to the Province under the said Fifth Schedule.

* * * *

69.—(1) A person shall be disqualified for being chosen as, and for being, a member of a Provincial Legislative Assembly or Legislative Council—

(a) if he holds any office of profit under the Crown in India, other than an office declared by Act of the Provincial Legislature not to disqualify its holder ;

(b) if he is of unsound mind and stands so declared by a competent court ;

(c) if he is an undischarged insolvent ;

(d) if, whether before or after the commencement of this Part of this Act, he has been convicted or has, in proceedings for questioning the validity or

regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice relating to elections, which has been declared by Order in Council, or by an Act of the Provincial Legislature, to be an offence or practice entailing disqualification for membership of the Legislature, unless such period has elapsed as may be specified in that behalf in the provisions of that Order or Act ;

- (e) if, whether before or after the commencement of this Part of this Act, he has been convicted of any other offence by a court in British India or in a State which is a Federated State and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Governor, acting in his discretion, may allow in any particular case, has elapsed since his release.
- (f) if, having been nominated as a candidate for the Federal or any Provincial Legislature or having acted as an election agent of any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by any Order in Council made under this Act or by any Act of the Federal or the Provincial Legislature, unless five years have elapsed from the date by which the return ought to have been lodged or the Governor, acting in his discretion, has removed the disqualification :

Provided that a disqualification under paragraph (f) of this sub-section shall not take effect until the expiration of one month from the date by which the return ought to have been lodged or of such longer period as the Governor, acting in his discretion, may in any particular case allow.

(2) A person shall not be capable of being chosen a member of a Chamber of a Provincial Legislature while he is serving a sentence of transportation or of imprisonment for a criminal offence.

(3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (d) or paragraph (e) of sub-section (1) of this section is at the date of the disqualification a member of a Chamber, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this sub-section, he shall not sit or vote.

(4) For the purposes of this section a person shall not be deemed to hold an office of profit under the Crown in India by reason only that he is a minister either for the Federation or for a Province.

291. In so far as provision with respect to the matters hereinafter mentioned is not made by this Act, His Majesty in Council may from time to time make provision with respect to those matters or any of them, that is to say—

Power of His Majesty to make provision with respect to franchises and elections.

- (a) the delimitation of territorial constituencies for the purpose of elections under this Act ;
- (b) the qualifications entitling persons to vote in territorial or other constituencies at such elections, and the preparation of electoral rolls ;
- (c) the qualifications for being elected at such elections as a member of a legislative body ;
- (d) the filling of casual vacancies in any such body ;
- (e) the conduct of elections under this Act and the methods of voting thereat ;
- (f) the expenses of candidates at such elections ;
- (g) corrupt practices and other offences at or in connection with such elections ;
- (h) the decision of doubts and disputes arising out of, or in connection with, such elections ;
- (i) matters ancillary to any such matter as aforesaid.

* * * *

FIFTH SCHEDULE

COMPOSITION OF PROVINCIAL LEGISLATURES

General Qualification for Membership

1. A person shall not be qualified to be chosen to fill a seat in a Provincial Legislature unless he—

Section 61.

- (a) is a British subject or the Ruler or a subject of an Indian State which has acceded to the Federation or, if it is so prescribed with respect to any Province, the Ruler or a subject of any prescribed Indian State ; and
- (b) is, in the case of a seat in a Legislative Assembly, not less than twenty-five years of age, and in the case of a seat in a Legislative Council, not less than thirty years of age ; and
- (c) possesses such, if any, of the other qualifications specified in, or prescribed under, this Schedule as may be appropriate in his case.

2. Upon the expiration of the term for which he is chosen to serve as a member of a Provincial Legislature, a person, if otherwise duly qualified, shall be eligible to be chosen to serve for a further term.

Legislative Assemblies

3. The allocation of seats in Provincial Legislative Assemblies shall be as shown in the relevant Table of Seats appended to this Schedule,

4. In the Legislative Assembly of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province, and of those seats—

- (i) the number specified in the third column shall be general seats of which the number specified in the fourth column shall be reserved for members of the scheduled castes and, in the case of Bombay, seven shall be reserved for Marathas ;
- (ii) the numbers specified in the next ten columns shall be the numbers of seats to be filled by persons chosen to represent respectively—(a) backward areas and backward tribes ; (b) the Sikh community ; (c) the Muhammadan community ; (d) the Anglo-Indian community ; (e) the European community ; (f) the Indian-Christian community ; (g) the interests of commerce, industry, mining and planting ; (h) landholders ; (i) universities ; and (j) the interests of labour ; and
- (iii) the numbers specified in the last five columns shall be the numbers of seats (being either general seats, Sikh seats, Muhammadan seats, Anglo-Indian seats or Indian-Christian seats) reserved for women.

In the Punjab one of the landholders' seats shall be a seat to be filled by a Tumandar.

5. A Province, exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency or in any constituency of any particular class, shall be divided into territorial constituencies—

- (i) for the election of persons to fill the general seats ;
- (ii) for the election of persons to fill the Sikh seats, if any ;
- (iii) for the election of persons to fill the Muhammadan seats ;
- (iv) for the election of persons to fill the Anglo-Indian seats, if any ;
- (v) for the election of persons to fill the European seats, if any ; and
- (vi) except in the case of Bihar, for the election of persons to fill the Indian-Christian seats, if any ;

or, if as respects any class of constituency it is so prescribed, may form one territorial constituency.

In the case of each such class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency.

6. The required number of general seats to be reserved for members of the scheduled castes, and in the Province of Bombay for Marathas, shall be reserved by reserving for members of those castes or, as the case may be, for Marathas one or more seats in each of so many of the general territorial constituencies as may be necessary, so, however, that in each such constituency there shall be at least one unreserved seat,

7. In a province in which any general seats are reserved for members of the scheduled castes, all members of those castes who are entitled to vote in a constituency in which any seat is so reserved shall be entitled to take part in a primary election held for the purpose of electing four candidates for each seat so reserved, and no member of those castes not elected as a candidate at such an election shall be qualified to hold—

(a) a seat so reserved in that constituency ;

(b) if it is so prescribed as respects that Province, any seat in that constituency.

In relation to bye-elections this paragraph shall have effect with such adaptations and modifications as may be prescribed.

8. The persons to fill the seats specified in columns fifteen to nineteen of the Table of Seats as seats to be filled by women shall be chosen in territorial constituencies, which shall be either—

(a) constituencies formed under paragraph five of this Schedule ; or

(b) constituencies specially formed for the purpose of electing women members.

9. The provisions of the Sixth Schedule to this Act shall have effect with respect to the persons who are entitled to vote at elections in the territorial constituencies mentioned in paragraphs five and eight of this Schedule.

10. In a Province in which any seats are to be filled by representatives of backward areas or backward tribes, representatives of commerce, industry, mining and planting, representatives of landholders, representatives of universities or representatives of labour, persons to fill those seats, and in Bihar the person to fill the Indian-Christian seat, shall be chosen in such manner as may be prescribed :

Provided that in a Province in which any seats are to be filled by representatives of backward areas or backward tribes some or all of those seats may, if it is so prescribed, be treated in the prescribed manner as additional general seats to be reserved for representatives of such areas or tribes.

11. In the Punjab the landholder's seat to be filled by a Tumandar shall be assigned to such constituency as may be prescribed.

12. A person shall not be qualified to [be chosen to fill]* a seat in the Legislative Assembly of a Province unless—

(a) in the case of a seat to be filled by a woman, by a European, by an Indian-Christian, by a representative of backward areas or backward tribes, by a representative of commerce, industry, mining and planting, by a representative of universities or by a representative of labour, he possesses such qualifications as may be prescribed ; and

(b) in the case of any other seat, he is entitled to vote in the choice of a member to fill that seat or any other seat of a similar class in that Province.

Legislative Councils

13. The allocation of seats in the Legislative Councils of Provinces having such Councils shall be as shown in the relevant Table of Seats appended to this Schedule.

14. In the Legislative Council of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province, and of those seats—

- (a) the number specified in the third column shall be general seats ;
- (b) the number specified in the fourth, fifth and sixth columns shall be seats to be filled by persons chosen to represent respectively the Muhammadan community, the European community and the Indian-Christian community ;
- (c) the number specified in the seventh column shall be seats to be filled by persons elected by the members of the Legislative Assembly of the Province in accordance with the system of proportional representation by means of the single transferable vote ; and
- (d) the number specified in the eighth column shall be seats to be filled by persons chosen by the Governor in his discretion.

15. A Province, exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency or in any constituency of any particular class, shall be divided into territorial constituencies—

- (i) for the purpose of electing persons to fill the general seats ;
- (ii) for the purpose of electing persons to fill the Muhammadan seats ;
- (iii) for the purpose of electing persons to fill the European seats ;
- (iv) for the purpose of electing persons to fill the Indian-Christian seats, if any ;

or, if as respects any class of constituency it is so prescribed, may form one territorial constituency.

In the case of each such class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency.

16. At an election in a constituency to fill a general seat, persons entitled to vote in a Muhammadan constituency, a European constituency, or an Indian-Christian constituency shall not be entitled to vote.

In the case of a Muhammadan constituency, a European constituency, or an Indian-Christian constituency no person shall be entitled to vote who is not, as the case may be, a Muhammadan, a European, or an Indian-Christian.

17. The qualifications entitling a person to vote in territorial constituencies at elections of members of a Provincial Legislative Council, and the qualifications to be possessed by members of such Councils, shall be such as may be prescribed.

18. The term of office of a member of the Legislative Council of a Province other than a member chosen to fill a casual vacancy shall be nine years, but upon the first constitution of the Council the Governor in his discretion shall make by order such provision as he thinks fit by curtailing the term of office of some

of the members then chosen for securing that, as nearly as may be, one-third of the members holding seats of each class shall retire in every third year thereafter.

A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

General

19. In the foregoing provisions of this Schedule the following expressions have the meanings hereby assigned to them, that is to say,—

“a European” “an Anglo-Indian,” “an Indian-Christian” and “the scheduled castes” have the same meanings respectively as they have in Part I of the First Schedule to this Act ;

“backward areas” and “backward tribes” mean respectively such areas and tribes as His Majesty in Council may from time to time declare to be areas and tribes to which a special system of representation is more appropriate ; and

“prescribed” means prescribed by His Majesty in Council or, so far as regards any matter which under this Act the Provincial Legislature or the Governor are competent to regulate, prescribed by an Act of that Legislature or by a rule made under the next succeeding paragraph.

20. In so far as provision with respect to any matter is not made by this Act or by His Majesty in Council or after the constitution of the Provincial Legislature by Act of that Legislature (where the matter is one with respect to which that Legislature is competent to make laws), the Governor, exercising his individual judgment, may make rules for carrying into effect the foregoing provisions of this Schedule and the provisions of the Sixth Schedule and securing the due constitution of the Provincial Legislature and in particular but without prejudice to the generality of the foregoing words with respect to—

- (i) the notification of vacancies including casual vacancies and the proceedings to be taken for filling vacancies ;
- (ii) the nomination of candidates ;
- (iii) the conduct of elections including the application to elections of the principle of proportional representation by means of the single transferable vote, and the rules to regulate elections where certain of the seats to be filled are reserved for members of the scheduled classes, or in the case of Bombay for Marathas, or where certain of the seats allotted to any community must be held by a woman or by a specified type of landholder ;
- (iv) the expenses of candidates at elections ;
- (v) corrupt practices and other offences at or in connection with elections ;
- (vi) the decision of doubts and disputes arising out of or in connection with the elections ; and
- (vii) the manner in which the rules are to be carried into effect.

TABLE OF SEATS
Provincial Legislative Assemblies

Province	Total seats	General Seats			Sikh Seats	Muhammadan Seats	Anglo-Indian Seats	European Seats	Indian Christian Seats	Seats for representatives of commerce, industry, mining and planting	Landholders Seats	University Seats	Seats for representatives of labour	Seats for Women			
		Total of General Seats	General Seats reserved for Scheduled Castes	General Seats reserved for backward areas and tribes										General	Sikh	Muhammadan	Anglo-Indian
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Assam ..	108	47	7	9	..	34	..	1	1	11	..	..	4	1	..	..	..

In Assam and Orissa the seats reserved for women shall be non-communal seats.

TABLE OF SEATS
Provincial Legislative Councils

Province	Total of Seats	General Seats	Muhammadan Seats	European Seats	Indian Christian Seats	Seats to be filled by Legislative Assembly	Seats to be filled by Governor
1	2	3	4	5	6	7	8
Assam ..	{ Not less than 21 .. { Not more than 22 ..	10	6	2	..	..	{ Not less than 3. Not more than 4.

SIXTH SCHEDULE

PROVISIONS AS TO FRANCHISE

PART I

General

1. There shall be an electoral roll for every territorial constituency and no person who is not, and, except as expressly provided by this Schedule, every person who is, for the time being included in the electoral roll for any such constituency shall be entitled to vote in that constituency.

2. The electoral rolls for the territorial constituencies shall be made up and from time to time in whole or in part revised by reference to such date, in this Schedule referred to as "the prescribed date," as may be directed in each case by the Governor, exercising his individual judgment.

3. No person shall be included in the electoral roll for any territorial constituency unless he has attained the age of twenty-one years and is either—

- (a) a British subject ; or
- (b) the Ruler or a subject of a Federated State ; or
- (c) if and so far as it is so prescribed with respect to any Province, and subject to any prescribed conditions, the Ruler or a subject of any other Indian State.

4. No person shall be included in the electoral roll for, or vote at any election in, any territorial constituency if he is of unsound mind and stands so declared by a competent court.

5. No person shall be included in the electoral roll for a Sikh constituency, a Muhammadan constituency, an Anglo-Indian constituency, a European constituency or an Indian-Christian constituency unless he is a Sikh, a Muhammadan, an Anglo-Indian, a European or an Indian-Christian, as the case may be.

6. No person who is or is entitled to be included in the electoral roll for any Sikh constituency, Muhammadan constituency, Anglo-Indian constituency, European constituency or Indian-Christian constituency in any Province shall be included in the electoral roll for a general constituency in that Province *

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Provided that this paragraph shall not apply in relation to the general seats reserved for women in Assam and Orissa or the constituencies for the election of persons to fill those seats.

7. No person shall, in any Province, vote at a general election in more than one territorial constituency, and, in each Province, such provisions, if any, as may be prescribed in relation to that Province shall have effect for the purpose of preventing persons being included in the electoral roll for more than one

Provided that in any Province in which territorial constituencies have been specially formed for the purpose of electing women members, nothing in this paragraph or in any such provisions shall prevent a person from being included in the electoral roll for, and voting at a general election in, one territorial constituency so formed and also one territorial constituency not so formed.

* If a person votes in more than one constituency in contravention of this paragraph, his votes in each of the constituencies shall be void.

8. No person shall be included in the electoral roll for, or vote at any election in, a territorial constituency if he is for the time being disqualified from voting under the provisions of any such Order in Council, Act of the Provincial Legislature or rules made by the Governor as may be made or passed under this Act with respect to corrupt practices and other offences in connection with elections, and the name of any person who becomes so disqualified shall forthwith be struck off all the electoral rolls for territorial constituencies in which it may be included.

9. No person shall vote at any election in any territorial constituency, if he is for the time being undergoing a sentence of transportation, penal servitude, or imprisonment.

10. The following provisions shall have effect with respect to the enfranchisement of women in respect of the qualification of their husbands—

- (a) a woman who, at the death of her husband, is included in an electoral roll for a territorial constituency by virtue of his qualifications shall, notwithstanding anything in the subsequent provisions of this Schedule, continue to be on the roll for that constituency unless she remarries or becomes disqualified under the foregoing provisions of this Schedule for inclusion in that roll ;
- (b) not more than one woman shall at any one time appear in the electoral rolls for the territorial constituencies in a Province in respect of the qualifications of any particular man and any question which of several women is to be selected for inclusion shall be determined in the prescribed manner :

Provided that if a woman who is entitled by virtue of subparagraph (a) of this paragraph to remain on the roll of a territorial constituency changes her place of residence, then, if she so desires, she may, on any subsequent revision of the roll, be transferred to the roll of such other territorial constituency as may be appropriate.

11. For the purposes of this Schedule any property owned, held, or occupied or payment made by or assessment made on, a person as a trustee, guardian, administrator or receiver or in any other fiduciary capacity, shall, except as otherwise expressly provided in this Schedule, be left out of account.

12. This Schedule shall have effect as if any reference therein to an officer, non-commissioned officer, or soldier of His Majesty's regular military forces included a reference to an officer or man

of any British India police force, not being an officer or man who has been dismissed or discharged from that force for disciplinary reasons, and a reference to an officer, non-commissioned officer or soldier of the Auxiliary Force (India) or the Indian Territorial Force, not being an officer, non-commissioned officer or soldier who has been dismissed or discharged from the force for disciplinary reasons, or has served in the force for less than four years.

13.(1) In this Schedule, except where the context otherwise requires—

“territorial constituency” means one of the territorial constituencies mentioned in paragraphs five and eight of the Fifth Schedule to this Act ;

“European,” “Anglo-Indian,” “Indian-Christian” and “scheduled castes” have the same meanings respectively as they have in Part I of the First Schedule to this Act ;

“Indian-Christian constituency” does not include any constituency which may be formed for choosing persons to fill the Indian-Christian seat in Bihar ;

“person” does not include a body of persons ;

“prescribed,” except in the phrase “the prescribed date,” has the same meaning as in the Fifth Schedule to this Act ;

“previous financial year,” “previous Bengali year” and “previous fasli year” mean, respectively, the financial year, the Bengali year, and the fasli year immediately preceding that in which the prescribed date falls ;

“house” and “building” include, respectively, a part of a house or building separately occupied as a dwelling or for the purposes of any trade, business, or profession ;

“literate” means, in relation to any person, able to read and write in some language or dialect selected by him, being a language or dialect in common use in some part of India ;

“cantonment” means a cantonment for the purposes of the Cantonments Act, 1924, and “cantonment record” means a record prepared under that Act.

(2) Any reference in this Schedule to “urban constituencies” or “rural constituencies” shall be construed as a reference to such territorial constituencies as may be classified as urban or rural constituencies, respectively, by an Order in Council delimiting territorial constituencies :

Provided that any such Order in Council may direct that any Anglo-Indian constituency, European constituency, or Indian-Christian constituency shall be deemed to be an urban constituency for some purposes and rural constituency for other purposes,

(3) Any reference in this Schedule to persons assessed to income tax in any financial year shall be deemed to include a reference to any partner in a firm assessed to income tax in that year if his share of the firm's income on which income-tax was so assessed is certified in the prescribed manner to have been not less than the minimum on which the tax is leviable.

(4) If any question arises under this Schedule whether any person is or is not a Sikh, he shall be deemed to be a Sikh if and only if he makes in the prescribed manner a declaration in the prescribed form that he is a Sikh.

(5) Any reference in this Schedule to a retired, pensioned or discharged officer, non-commissioned officer or soldier of any force shall be deemed not to include a reference to any person who has been dismissed or discharged from that force for disciplinary reasons.

(6) Any reference in this Schedule to all or any of the provisions of any Indian Act shall be construed as a reference to those provisions as amended by or under any other Act or, if those provisions are repealed and re-enacted with or without modification, to the provisions so re-enacted.

(7) If the boundaries of any district or other administrative area mentioned in this Schedule are altered, any reference in this Schedule to that district or area shall thereafter be taken as a reference to the district or area as altered.

PART IX

ASSAM

General requirement as to residence

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he has a place of residence in the constituency, and a person shall be deemed to have a place of residence in a constituency if he ordinarily lives in the constituency or has his family dwelling place in the constituency and occasionally occupies it:

Provided that in relation to the European constituency the provisions of this paragraph shall be deemed to be complied with in relation to any person if he is actually employed anywhere in Assam but is absent from Assam on leave from his employment.

Qualifications dependent on taxation

2. Subject to the provisions of Part I of this Schedule and to any overriding provisions of this Part of this Schedule, a person shall be qualified to be included in the electoral roll for any

territorial constituency if, in the previous financial year, he either—

- (a) was assessed to income-tax ; or
- (b) was in the constituency assessed in respect of municipal or cantonment rates or taxes to an aggregate amount of not less than two rupees or, in the Sylhet municipality, of not less than one rupee eight annas, or to a tax of not less than one rupee in a Small Town, or, in the district of Sylhet, the district of Cachar or the district of Goalpara, to a tax of not less than eight annas under the Village Chaukidari Act, 1870.

Qualifications dependant on property

3. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if, in the constituency, he either—

- (a) is the owner of land the land revenue on which has been assessed or is assessable at not less than seven rupees eight annas per annum ; or
- (b) is liable to pay a local rate of not less than eight annas per annum ; or
- (c) throughout the previous financial or previous Bengali year held from a landlord land in any of the following districts, that is to say, Lakhimpur, Sibsagar, Darrang, Nowgong or Kamrup, or in the Garo Hills, and paid to the landlord rent to the value of not less than seven rupees eight annas in respect of that land :

Provided that for the purposes of this paragraph land situate, and local rates levied, in the districts of Sylhet, Cachar and Goalpara shall be left out of account.

Educational qualification

4. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to have passed the middle school leaving certificate examination or any other examination prescribed as at least equivalent thereto.

Qualification by reason of service in His Majesty's forces

5. Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is a retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Majesty's regular military forces or the Assam Rifles,

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Additional qualification for women

6. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency if she is the pensioned widow or pensioned mother of a person who was an officer, non-commissioned officer or soldier of His Majesty's regular military forces or the Assam Rifles, or if she is proved in the prescribed manner to be literate, or if her husband possesses the qualifications requisite for the purposes of this paragraph.

7. A husband shall be deemed to possess the qualifications requisite for the purposes of the last preceding paragraph if he—

- (a) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular military forces or the Assam Rifles ; or
- (b) was in the previous financial year assessed to income-tax ; or
- (c) was in the previous financial year assessed in the constituency in respect of municipal or cantonment rates or taxes—
 - (i) in the Nowgong municipality, to not less than two rupees ; or
 - (ii) in the Sylhet municipality, to not less than one rupee eight annas ; or
 - (iii) elsewhere in the Province, to not less than three rupees ; or
- (d) was in the constituency assessed in the previous financial year to a tax of not less than one rupee in a Small Town ; or
- (e) was in the constituency assessed in the previous financial year in the district of Sylhet, the district of Cachar or the district of Goalpara to a tax of not less than one rupee under the Village Chaukidari Act, 1870 ; or
- (f) elsewhere than in the said districts, is the owner of land in the constituency, the land revenue on which has been assessed or is assessable at not less than fifteen rupees per annum ; or
- (g) is liable to pay a local rate in the constituency of not less than one rupee per annum.

Application necessary for enrolment in certain cases

8. No person shall, by virtue of paragraph six of this Part of this Schedule, be included in the electoral roll for any territorial constituency unless application is made in the prescribed manner by her, or, if it is so prescribed, on her behalf, that she should be so included :

Provided that except in relation to the original preparation of electoral rolls and revisions thereof within three years from the commencement of Part III of this Act, this paragraph shall, in relation to women qualified by virtue of their husbands' qualifications, have effect only where the husband's qualification is that mentioned in sub-paragraph (a) of paragraph seven of this Part of this Schedule.

*Special provisions as to seat reserved for women**Special provisions as to Shillong*

9. The following provisions shall have effect in relation to any constituency specially formed for the election of persons to fill the seat reserved for women—

- (a) no man shall be included in the electoral roll for the constituency or be entitled to vote at any election therein.

* 9A. In the case of any territorial constituency comprising any part of Shillong, any reference in this Part of this Schedule to "the constituency" shall be construed as including a reference to so much of the areas under the jurisdiction of the Shillong Municipal Board and the Shillong Cantonment Authority as is not part of British India, and any reference to municipal or cantonment rates or taxes shall be construed as including a reference to any such rates or taxes assessed by or paid to that Authority in the exercise of any jurisdiction exercised by them in relation to areas outside British India.

Special provisions as to backward areas and backward tribes

10. No person who is entitled to vote in the election of a person to fill any of the seats to be filled by representatives of backward areas or backward tribes, or is entitled to be included in the electoral roll for any constituency formed for the purpose of filling any such seat, shall be included in the electoral roll for any territorial constituency in the Province, other than any constituency specially formed for the election of persons to fill the seat reserved for women.

Interpretation, etc.

11.(1) In this Schedule, in relation to Assam—

"Small Town" means a notified area constituted under Chapter XII of the Assam Municipal Act I of 1923 ;

"Bengali year" means a year ending on the last day of the Bengali month of *Chaitra* ;

"local rate" means the local rate assessed under the Assam Local Rates Regulation, 1879 ;

"landlord" means a person under whom another person holds land immediately, but does not include the Government ;

"rent" includes rent in kind or partly in kind.

(2) Where property is held or payments are made jointly by, or assessments are made jointly on, the members of a joint family, the family shall be adopted as the unit for deciding whether the necessary qualification exists, and if it does exist the person qualified shall be, in the case of a Hindu joint family, the manager thereof, and in other cases the member authorised in that behalf by the family themselves :

Provided that any other member of any such family shall also be qualified if the proportion of the joint property, payment or assessment which corresponds with his share therein would be sufficient for him to be qualified if he held it separately.

*Inserted by paragraph 5 of Part IX of the Government of India (Provincial Legislative Assemblies) Order, 1936.

APPENDIX II

THE GOVERNMENT OF INDIA (PROVIN-
CIAL LEGISLATIVE ASSEMBLIES)
ORDER, 1936

AT THE COURT AT BUCKINGHAM PALACE,

The 30th day of April, 1936.

Present,

THE KING'S MOST EXCELLENT MAJESTY IN
COUNCIL.

WHEREAS by section two hundred and ninety-one of, and the Fifth and Sixth Schedules to, the Government of India Act, 1935 (hereafter in this Order referred to as "the Act"), His Majesty in Council is empowered to make provision with respect to certain matters connected with Provincial Legislative Assemblies :

AND WHEREAS by sub-section (4) of section three hundred and eight of the Act His Majesty in Council is empowered to make amendments of the provisions of the Act relating to the qualifications of members of Provincial Legislative Assemblies and the qualifications entitling persons to be registered as voters for the purposes of elections to those Assemblies :

AND WHEREAS a draft of this Order has been laid before Parliament in accordance with the provisions of sub-section (1) of section three hundred and nine of the Act, and an Address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order :

NOW THEREFORE, His Majesty, in the exercise of the powers conferred on Him as aforesaid and of all other powers enabling Him in that behalf, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :—

PART I

Introductory and General.

Introductory

1. This Order may be cited as the Government of India (Provincial Legislative Assemblies) Order, 1936.

2.—(1) In this Order, except where the context otherwise requires :—

“territorial constituency” means one of the territorial constituencies mentioned in paragraphs five and eight of the Fifth Schedule to the Act ;

“ . . . ”

- “seat”, “election”, and “constituency” in relation to any Province mean respectively a seat in the Legislative Assembly of that Province and an election or a constituency for the purpose of filling such a seat, and “election” includes a primary election ;
- “prescribed”, except in the phrase “the prescribed date”, has the same meaning as in the Fifth Schedule to the Act ;
- “rules” means rules made under paragraph twenty of the Fifth Schedule to the Act ;
- “commerce” includes banking, insurance and transport ;
- “mining” includes the getting of oil ;
- “factory” means a factory within the meaning of the Factories Act, 1934, and “perennial factory” means a factory which is not a seasonal factory for the purposes of that Act ;
- “mine” means a mine which is subject to the provisions of the Indian Mines Act, 1923 ;
- “Gazette” means the Government Gazette of the Province in question ;
- “preparation” in relation to an electoral roll includes the revision thereof, and “prepare” shall be construed accordingly ;
- “member” in relation to a constituent body for a commerce and industry, mining or planting constituency does not include an associate member ;

and, subject as aforesaid and to any other provisions of this Order, expressions to which a meaning is assigned by the Sixth Schedule to the Act, either generally or in relation to any particular Province, have, except where the context otherwise requires, the same meanings for the purposes of this Order, either generally or in relation to that Province, as the case may be.

(2) The fact that one of two territorial constituencies is an urban and the other a rural constituency, or that in one of them the seat or one of the seats is a woman's seat or a reserved seat, shall not prevent them being deemed to be constituencies of the same communal description or constituencies of a similar class if they are both general constituencies or constituencies assigned to a specified community, and the expressions “seat of the same communal description” and “seat of a similar class” shall for the purposes of the Schedules to the Act and of this Order be construed accordingly.

(3) Any reference in this Order to a paid up capital of not less than a specified amount shall be construed as including a reference to a paid up capital of not less than the equivalent of that amount in sterling.

(4) Any reference in this Order to all or any of the provisions of any Indian Act shall be construed as a reference to those provisions as amended by or under any other Act or, if those provisions are repealed and re-enacted with or without modification, to the provisions so re-enacted.

(5) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Special Constituencies

3. There shall be an electoral roll for every special constituency and no person who is not, and, except as expressly provided by the Fifth Schedule to the Act and this Order, every person who is, for the time being included in the electoral roll for any such constituency shall be entitled to vote in that constituency.

4. The electoral rolls for the special constituencies shall be made up, and from time to time in whole or in part revised, by reference to such date, in this Order referred to as "the prescribed date", as may be directed in each case by the Governor exercising his individual judgment.

5. Subject to any express provisions of this Order, no person shall be included in the electoral roll for any special constituency unless he has attained the age of twenty-one years and is either :—

- (a) a British subject ; or
- (b) the Ruler or a subject of a Federated State ; or
- (c) if and so far as it is so prescribed with respect to any Province, and subject to any prescribed conditions, the Ruler or a subject of any other Indian State.

6. No person shall be included in the electoral roll for, or vote at any election in, a special constituency if he is of unsound mind and stands so declared by a competent court.

7. No person shall be included in the electoral roll for, or vote at any election in, a special constituency if he is for the time being disqualified from voting under the provisions of any such Order in Council, Act of the Provincial Legislature or rules as may be made or passed under the Act with respect to corrupt practices and other offences in connection with elections, and the name of any person who becomes so disqualified shall forthwith be struck off all the electoral rolls for special constituencies in which it may be included.

8. No person shall vote at an election in a special constituency if he is for the time being undergoing a sentence of transportation, penal servitude or imprisonment.

9. For the purposes of the provisions of this Order relating to the qualifications for inclusion in electoral rolls for special constituencies, any property owned, held or occupied or payment made by, or assessment made on, a person as a trustee, guardian, administrator or receiver, or in any other fiduciary capacity, shall, subject as hereinafter provided, be left out of account :

Provided that, except in the United Provinces, a person shall be qualified to be included in the electoral roll for a landholders' constituency if he—

- (a) is on the prescribed date the guardian of a minor who under this Order would have been entitled to be included in that roll if he were of full age and satisfied the relevant requirements of this Order as to residence ; and

- (b) would himself have been entitled to be included in that roll, if the property of the minor were his own property.

10. For the purposes of the said provisions, where property is owned, held or occupied or payments are made jointly by, or assessments are made jointly on, the members of a joint family, the family shall be adopted as the unit for deciding whether any qualification exists, and if it does exist, the person qualified shall be, in the case of a Hindu joint family, the manager thereof, and, in the case of any other joint family, the member thereof authorised in that behalf by the family:

Provided that in the case of Bengal this paragraph shall not apply where members of a joint family have separate accommodation and separate messing, and in the case of the Punjab it shall not apply where the respective shares of the members of a joint family are specified in land records or municipal or cantonment records or a decree of a civil court.

11. Subject to the provisions of the last preceding paragraph, where any property is owned, held or occupied, or payments are made, jointly by, or assessments are made jointly on, more than one person, any reference in the provisions of this Order relating to special constituencies to any property, payment or assessment shall be construed as a reference to each person's share of that property, payment or assessment.

12. Where under the provisions of this Order any qualification for being included in an electoral roll for a special constituency depends upon the owning or holding of land in a specified area, or the being assessed or the making of payments in respect of land in a specified area, two or more parcels of land in that area owned or held by a person, and assessments made on or payments made by a person in respect of two or more parcels of land in that area, may be aggregated for the purpose of determining whether the qualification exists, but without prejudice, and subject, to any express provision in this Order with respect to such aggregation.

13. A person shall not be qualified to be included in the electoral roll for any labour constituency if he is subject to Indian Military Law.

General.

14.—(1) For the avoidance of doubt, it is hereby declared that a primary election held for the purpose of electing candidates for a seat reserved for members of the scheduled castes may be proceeded with notwithstanding that less than four candidates stand at that primary election, and that the remainder of the election may be proceeded with notwithstanding that, by reason of a deficiency of candidates at the primary election or by reason of the withdrawal or death of candidates elected thereat, there are or remain less than four duly elected scheduled caste candidates for the seat.

(2) At a poll at any such primary election no voter shall have more than one vote.

(3) Save as expressly provided in this Order with respect to Bengal, a member of the scheduled castes shall not be disqualified to hold a seat not reserved for members of the scheduled castes by reason that he has not been elected at a primary election as a candidate for a seat so reserved.

15. Subject to any express provisions of this Order to the contrary, where at an election a poll is taken for the purpose of filling more than one seat, a voter shall have as many votes as there are seats to be filled on the poll and may give all those votes to one candidate, or may distribute them between such candidates and in such manner as he thinks fits.

16.—(1) The provisions of this paragraph shall apply in relation to any election in a constituency where the seats to be filled include a seat or seats reserved for members of the scheduled casts or a seat reserved for a Maratha, a representative of backward tribes or areas, or, in the case of the Bengal Anglo-Indian constituency, a woman.

(2) If the number of candidates qualified to be chosen to fill a seat or seats so reserved is equal to the number of seats so reserved, all those candidates shall be declared to be elected to fill the reserved seat or reserved seats and a poll shall only be taken, if necessary, for filling any seat or seats not filled under this subparagraph.

(3) If the number of candidates qualified to be chosen to fill a seat or seats so reserved is greater than the number of seats so reserved, then, when the counting of the votes has been completed, the Returning Officer shall first declare that one, or those, of the qualified candidates to whom the largest number of votes has been given to be elected to fill the reserved seat or the reserved seats.

(4) If the number of candidates qualified to be chosen to fill a seat or seats so reserved is less than the number of seats so reserved, all those candidates, if any, shall be declared to be elected to fill seats so reserved, and the Governor, exercising his individual judgment, shall by notification in the Gazette call on the constituency to elect a person or persons, as the case may be, within such time as may be specified in the notification :

Provided that where a constituency having been already so called upon has failed to elect a person, or the requisite number of persons, as the case may be, to fill a vacancy or vacancies, the Governor shall not be bound again to call upon the constituency to elect a person or persons to fill the vacancy or vacancies until such time as, exercising his individual judgment, he may think fit.

17. If, when a poll has been taken at an election, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be given by the Returning Officer to the candidate, or, as the case may be, the candidates, selected by lot drawn in the presence of the Returning Officer in such manner as he may determine.

18.—(1) The fact that a person or body has, in relation to any constituency, more than one qualification to be included, or to nominate persons to be included, in the electoral roll therefor shall not increase his or its rights as respects inclusion, or, as the case may be, the nomination of persons for inclusion, in that roll.

(2) No person shall be entitled to be included twice in the electoral roll for any particular constituency, and the fact that a person is included twice in the electoral roll for a constituency shall not increase his rights as respects voting therein.

19. If a person is elected to more than one seat in the Legislative Assembly of a Province then, unless within the prescribed time he resigns all but one of the seats all the seats shall become vacant.

20.—(1) The date on which nominations are to be made and scrutinised, polls held and other acts done in connection with elections to a Provincial Legislative Assembly shall be fixed by the Governor in his discretion.

(2) Nothing in this paragraph shall be construed as preventing Acts of the Provincial Legislature or rules from making general provision with respect to the intervals which are to elapse between the successive stages of an election.

21.—(1) In all constituencies the electoral rolls shall be prepared by such authority as the Governor exercising his individual judgment shall appoint:

Provided that in the preparation of such rolls the authority so appointed may, subject to any prescribed restrictions, employ such persons as he thinks fit.

(2) In all constituencies and at all elections the Returning Officer shall be a person in the service of the Crown in India.

22.—(1) If the boundaries of any district or other administrative area mentioned in this Order or in the Sixth Schedule to the Act are altered, any reference in this Order or in the said Schedule to that district or area shall, as from such date or dates as may be fixed by the Governor, exercising his individual judgment, either for all purposes or for any particular purposes of this Order or of the said Schedule, be taken as a reference to the district or area as altered.

(2) Sub-paragraph (7) of paragraph thirteen of Part 1 of the Sixth Schedule to the Act (which relates to alteration in the boundaries of districts) shall cease to have effect.

23. The provisions of the Fifth and Sixth Schedules to the Act shall have effect subject to the minor amendments specified in the First Schedule to this Order.

24. The Governor of the Province may at any time by order vary the name of any territorial constituency if he deems it expedient so to do.

25. Notwithstanding anything in the Indian Income-Tax Act, 1922, it shall be the duty of the appropriate income-tax officers to give to any person charged by law with the duty of inquiring into the qualifications of electors such information as is necessary for the purpose of enabling him to discharge that duty.

26. Anything which under the provisions of the Act, or of this Order, is required or authorised to be done by, to or before the Governor of a Province in connection with the preparation of electoral rolls or the holding of elections, or otherwise for the purpose of constituting the Legislative Assembly of the Province in due time (whether or not the Governor is to act in his discretion or to exercise his individual judgment) shall, before the commencement of Part III of the Act, be done by, to or before the Governor in Council or, in the case of Sind or Orissa, the Governor.

* * * * *

PART IX

ASSAM

The Territorial Constituencies

1.—(1) The territorial constituencies for the Province shall be those specified in the first column of the tables in Parts I to V of the Ninth Schedule to this Order, the extent thereof shall be as specified in the second column of those tables and the total number of seats to be filled in each of them shall be as specified in the third column of those tables.

(2) The women's (Shillong) constituency mentioned in Part III of the said Schedule is a constituency specially formed under sub-paragraph (b) of paragraph eight of the Fifth Schedule to the Act.

(3) In the case of the general constituencies, of the total number of seats to be filled in each constituency the number of the seats, if any, specified in the fourth column of the table shall be reserved for members of the scheduled castes.

The Women's Seat

2. A woman shall not be qualified to be chosen to fill the seat reserved for women unless she is entitled to vote in the choice of a member to fill some seat.

The European Seat

3. A person shall not be qualified to be chosen to fill the European seat unless he is a European entitled to vote in the choice of a member to fill that seat or some other seat.

The Indian Christian Seat

4. A person shall not be qualified to be chosen to fill the Indian Christian seat unless he is an Indian Christian entitled to vote in the choice of a member to fill that seat or some other seat.

Minor Amendment of Part IX of Sixth Schedule

5. Sub-paragraph (b) of paragraph nine of Part IX of the Sixth Schedule to the Act shall cease to have effect and at the end of that paragraph there shall be inserted the following paragraph—

“ Special Provisions as to Shillong ”

9A. In the case of any territorial constituency comprising any part of Shillong, any reference in this Part of this Schedule to “ the constituency ” shall be construed as including a reference to so much of the areas under the jurisdiction of the Shillong Municipal Board and the Shillong Cantonment Authority as is not part of British India, and any reference to municipal or cantonment rates or taxes shall be construed as including a reference to any such rates or taxes assessed by or paid to that Board or that Authority in the exercise of any jurisdiction exercised by them in relation to areas outside British India ”.

Backward Areas and Tribes Seats

6.—(1) The seats to be filled by representatives of backward areas and backward tribes shall be filled by elections in the special constituencies specified in the first column of the tables in Parts VI and VII of the Ninth Schedule to this Order and the extent of those constituencies shall be as specified in the second column of those tables.

(2) One seat shall be filled in each of those constituencies.

7.—(1) A person shall not be qualified to be included in the electoral roll for any of the Backward Tribal (Plains) Constituencies unless he is a member of a backward tribe, but, subject as aforesaid and subject to the provisions of this Order, the qualifications for inclusion in the said electoral rolls shall be those which are by Part IX of the Sixth Schedule to the Act specified as the qualifications for inclusion in the electoral rolls for general constituencies.

(2) A person shall not be qualified to be chosen to fill a seat in any constituency mentioned in this paragraph unless he is a member of a backward tribe who is entitled to vote in the choice of a member to fill that seat or some other seat.

(3) In this paragraph “ backward tribes ” means one of the tribes or communities specified in Part V of the Thirteen Schedule to this Order.

8.—(1) Subject to the provisions of this Order, a person shall be qualified to be included in the electoral roll for the Garo Hill (North) constituency or the Garo Hills (South) constituency if he is a nokma in the constituency who is recognised as such by the Government.

(2) A person shall not be qualified to be chosen to fill a seat in either of the said constituencies unless he has a place of residence in one or other of them.

9.—(1) A person shall not be qualified to be included in the electoral roll for the Shillong constituency or the Jowai constituency if he is entitled to be included in the electoral roll for any territorial constituency other than the women’s constituency.

(2) Subject to the provisions of this Order, a person shall be qualified to be included in the electoral roll for either of the said constituencies if he has a place of residence in the constituency and either—

- (a) he has in the previous financial year been assessed to income tax or to house tax, or to an aggregate amount of not less than two rupees in respect of municipal or cantonment rates or taxes in the constituency, or would have been so assessed to house tax had he not been exempt therefrom by an order of a competent authority ; or
- (b) he has passed the Middle School Leaving Certificate Examination, or any examination prescribed as equivalent thereto ; or
- (c) he is a retired, pensioned or discharged officer, non-commissioned officer, soldier or man of His Majesty's regular military forces, of the Assam Rifles or of a British Indian police force, not being an officer, non-commissioned officer, soldier or man who was discharged or dismissed for disciplinary reasons ; or
- (d) in the case of a woman, she is the pensioned widow or pension mother of a person who was a non-commissioned officer, soldier or man of His Majesty's regular military forces, of the Assam Rifles or of a British Indian police force.

(3) Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for the Shillong constituency if he is the owner of land in any British village of the Shillong subdivision outside the Shillong municipality and cantonment the land revenue on which has been assessed, or is assessable, at not less than two rupees eight annas per annum.

(4) A Khasi or Synteng (Pnar) woman who is qualified to be included in the electoral roll for either of the said constituencies may, if she thinks fit, nominate one man to be included in the electoral roll for that constituency in her stead, and any man so nominated shall be included accordingly.

Except within the Shillong municipality and cantonment and the area in which the Shillong Municipal Board and the Shillong Cantonment Authority exercise jurisdiction the same man may be nominated by more than one woman and notwithstanding anything in Part I of this Order may, in respect of each nomination, be separately entered in the roll and exercise a separate right to vote.

(5) A person shall not be qualified to be chosen to fill a seat in either of the said constituencies unless he is entitled to vote in the choice of a member to fill one or other of those seats.

(6) Paragraph 9A of Part IX of the Sixth Schedule to the Act shall apply in relation to the Shillong constituency as it applies in relation to territorial constituencies.

10. (1) Subject to the provisions of this Order, a person shall be qualified to be included in the electoral roll for the Mikir Hills constituency if he is a village headman of a village in the constituency who is recognised as such by the Government.

(2) A person shall not be qualified to be chosen to fill a seat in the said constituency unless he has a place of residence in the constituency.

Commerce and Industry, and Planting Seats

11. (1) Of the seats to be filled by representatives of the interests of Commerce and Industry, and Planting—

- (a) seven shall be filled by representatives of European Planting ;
- (b) two shall be filled by representatives of Indian Planting ;
- (c) one shall be filled by a representative of European Commerce and Industry ;
- (d) one shall be filled by a representative of Indian Commerce and Industry.

(2) The said seats shall be filled by elections in the constituencies mentioned in the first column of the tables in Parts VIII and IX of the Ninth Schedule to this Order, and the extent of those constituencies, and the number of seats to be filled in them respectively, shall be as specified in the second and third columns of those tables.

12. (1) Subject to the provisions of this Order, a person shall be qualified to be included in the electoral roll—

- (a) for the European Planting Constituency, if he is the superintendent or manager of, or an engineer or medical officer employed on, any tea estate in the constituency which is under European control ;
- (b) for either of the Indian Planting Constituencies, if he is the superintendent or manager of, or an engineer or medical officer employed on, any tea estate in the constituency in question which is not under European control.

(2) Notwithstanding anything in the last foregoing sub paragraph but subject to the other provisions of this Order, where a tea estate is owned otherwise than by a corporation, the proprietor of the estate, or, where there are several co-proprietors, a co-proprietor nominated in that behalf by co-proprietors owning more than half the proprietary interests in the estate, shall be entitled, on making application within the prescribed time and in the prescribed manner, to be included in the electoral roll for the appropriate planting constituency in lieu of the superintendent or manager of the estate :

Provided that no proprietor or co-proprietor shall be so included in an electoral roll, unless he has a place of residence in the Province.

(3) Tea estates with less than seventy-five acres of tea under actual cultivation shall be left out of account for the purposes of this paragraph, and references therein to tea estates shall be construed accordingly.

13. (1) Subject to the provisions of this Order, a person shall be qualified to be included in the electoral roll for the European commerce and industry constituency if either—

- (a) he is a European and carries on business in the constituency on his own account and not in partnership with any other person and was in any one of the five financial years preceding that in which the prescribed date falls assessed to income tax on an income derived from commerce or industry of not less than ten thousand rupees ; or
- (b) he is nominated in that behalf by a firm under European control carrying on business in the constituency which in any one of the said years was so assessed to income tax ; or
- (c) he is the nominee in that behalf of a qualified company.

(2) In this paragraph "qualified company" means a company incorporated by or under the law of any part of His Majesty's Dominions which—

- (a) is under European control ;
- (b) is not principally engaged in the tea industry ;
- (c) has a place of business in the constituency ;
- (d) has a paid-up capital of not less than one lakh of rupees ; and
- (e) has in the constituency capital assets, other than money, to the value of at least twenty-five thousand rupees.

14. (1) Subject to the provisions of this Order, a person shall be qualified to be included in the electoral roll for the Indian commerce and industry constituency if either—

- (a) he carries on business in the constituency on his own account and not in partnership with any other person and was in any one of the five years preceding that in which the prescribed date falls assessed to income tax on an income derived from commerce or industry of not less than ten thousand rupees ;
- (b) he is nominated in that behalf by a firm not under European control or a Hindu joint family being a firm or family carrying on business in the constituency which was in any one of the said years so assessed to income tax ;
- (c) he is, or is nominated in that behalf by, the owner of a factory not under European control which is situate in the constituency and is subject to the provisions of the Indian Factories Act, 1934, not being a tea factory ; or
- (d) he is nominated in that behalf by a qualified company.

(2) In this paragraph "qualified company" means a company incorporated under the Indian Companies Act, 1913, which is not under European control and is not principally engaged in the tea industry and either—

- (a) has a paid up capital of not less than fifty thousand rupees, has its registered office in Assam and is duly registered in the office of the Registrar of Companies at Shillong ; or
- (b) has a paid up-capital of not less than one lakh of rupees and has in the constituency capital assets, not including money, to the value of not less than twenty-five thousand rupees.

15.—(1) A firm, company or Hindu joint family shall be entitled to nominate not more than three persons for the purposes of the two last preceding paragraphs, and the names of the persons so nominated shall be inserted in the electoral roll as being the nominees of the firm, company or family in question, but not more than one of those persons shall be entitled to vote at any election.

(2) No person shall be nominated as aforesaid by a firm or Hindu joint family, unless he is a member thereof or a person who is and has for at least six months been authorised to sign documents in its name in the ordinary course of its business.

(3) No person shall be nominated as aforesaid by a company unless he is a director, managing agent or manager thereof or the secretary thereof, or a person who is and has for at least six months been authorised to sign documents in its name in the ordinary course of its business.

16.—(1) A person shall not be qualified to be included in the electoral roll for more than one planting constituency, and any person who would, but for the provisions of this paragraph, be qualified to be included in more than one such roll shall be entitled to elect in which of the rolls he shall be included.

(2) If at a general election a person votes in more than one such constituency, his votes in all those constituencies shall be void.

17. A person shall not be qualified to be chosen to fill a planting seat, or a commerce and industry seat, unless he is included in the electoral roll for the constituency.

18. Acts of the Provincial Legislature or rules may contain provisions for defining the estates, companies and firms which are to be treated as being under European control or not under European control for the purposes of this Part of this Order.

Labour Seats

19.—(1) The seats to be filled by representatives of labour shall be filled by elections in the constituencies specified in the first column of the tables in Part X of the Ninth Schedule to this Order,

(2) In the second column of the said tables are specified in relation to each constituency, the tea gardens (hereafter referred to as "qualifying tea gardens") on employment in which the electoral roll for the constituency is, in the manner hereafter provided, to be based.

(3) References in those tables to gardens within a specified radius from any point or within a specified area include gardens the greater part of which is within that radius from that point or within that area.

20.—(1) At the first and every third subsequent general election, one of the said seats shall be filled in each of the following constituencies, that is to say, the Doom Dooma constituency, the Jorhat constituency, the Thakurbari constituency and the Silchar constituency.

(2) At the second and every third subsequent general election, one of the said seats shall be filled in each of the following constituencies, that is to say, the Tinsukia constituency, the Nazira constituency, the Biswanath constituency and the Srimangal constituency.

(3) At the third and every third subsequent general election, one of the said seats shall be filled in each of the remaining labour constituencies.

(4) Casual vacancies in any of the said seats shall be filled in the constituency in which the seat was filled at the last preceding general election.

21.—(1) Subject to the provisions of this Order, person shall be qualified to be included in the electoral roll for any of the said constituencies, if he has, during the year ending on the prescribed date, worked as a permanent employee in one or more qualifying tea gardens on not less than one hundred and eighty days:

Provided that a person who in the said year has not worked as aforesaid in one tea garden on sufficient days to qualify him for inclusion in the electoral roll shall not be included in the roll unless any prescribed requirements are complied with as to the making of an application for his enrolment and as to the production of evidence of his qualification.

(2) A person shall not be deemed to be working as a permanent employee in a tea garden on any day unless he is living either within the boundary of the garden or on land provided for that purpose by the owners thereof.

22.—(1) A person shall not be qualified to be chosen to fill any of the said seats, unless either—

- (a) he is a member of a qualifying tribe or caste and is entitled to vote in the choice of a member to fill some seat in the Province; or
- (b) he is a member of one of the qualifying tribes or castes comprised in Group I and is entitled to vote in the choice of a member to fill some seat in the Legislative Assembly of Bengal;
- (c) he is a member of one of the qualifying tribes or castes comprised in Group II and is entitled to vote in the choice of a member to fill some seat in the

(d) he is a member of one of the qualifying tribes or castes comprised in Group III and is entitled to vote in the choice of a member to fill some seat in the Legislative Assembly of Orissa.

(2) In this paragraph "qualifying tribe or caste" means a tribe or caste belonging to any of the following groups, that is to say :—

Group I.—Bauri Bhuyia, Bhutiya, Ghasi, Lepcha, Nepali, Paharia, Santal, Sikkimese :

Group II.—Ahir, Asor, Bauri, Bhogta, Bhuyia, Ghasi, Gond, Ho, Kharia, Kherwar, Lohar, Mahali, Munda Malpaharia, Santal, Sauria, Turi :

Group III.—Barhi, Bhuyia, Ganda, Golla, Gonda, Kewat, Khond, Lohar, Munda, Oraon, Pan, Santal Savara.

General

23. For the purposes of this Part of this Order, a person shall be deemed to have a place of residence in an area, if he ordinarily lives therein or has his family dwelling place therein and occasionally occupies it.

THE SCHEDULES

FIRST SCHEDULE

Minor Amendments of the Fifth and Sixth Schedules to the Act

1. In paragraph twelve of the Fifth Schedule to the Act (which relates to the qualifications to be possessed by members of a Provincial Legislative Assembly) for the words "shall not be qualified to hold a seat" there shall be substituted the words "shall not be qualified to be chosen to fill a seat".

2. In paragraph six of Part I of the Sixth Schedule to the Act (which relates to the preparation of electoral rolls) the words "or vote at any election to fill a general seat therein" shall be repealed.

3. At the end of paragraph seven of Part I of the Sixth Schedule to the Act, there shall be added the following provision :—

"If a person votes in more than one constituency in contravention of this paragraph, his votes in each of the constituencies shall be void."

4. For the purposes of any provision of the Sixth Schedule to the Act which requires that in certain cases a person shall not be included in an electoral roll unless an application is made by or on behalf of that person for that purpose, an application made before the date of this Order with a view to facilitating the provisional preparation of electoral rolls may be treated as a sufficient application.

NINTH SCHEDULE

ASSAM CONSTITUENCIES

I.—General Constituencies

Name of Constituency	Extent of Constituency	No. of seats	Scheduled castes seats
Dhubri (Central) ..	Bilasipara and Gossaingaon thanas	1	—
Dhubri (South) ..	Dhubri, Golakganj, South Salmara and Mankachar thanas <i>plus</i> the following three plains mauzas in the Garo Hills district, <i>viz.</i> , Mahendraganj, Rangapani and Fulbari.	1	—
Dhubri (North) ..	Bijni and Kokrajhar thanas	1	—
Goalpara (North-West)	Lakhipur and North-Salmara thanas.	1	—
Goalpara (South-East)	Goalpara and Dudnai thanas.	1	—
Barpeta (South) ..	Barpeta and Tarabari thanas	1	—
Barpeta (North) ..	Sorbhog and Patancharkuchi thanas.	1	—
Nalbari ..	Nalbari thana	1	—
Kamrup Sadr (North)	Rangia and Barama thanas.	1	—
Kamrup Sadr (Central).	Kamalpur and Hajo thanas	1	—
Kamrup Sadr (South).	Gauhati, Palasbari, Chaygaon and Boko thanas.	3	1
Mangaldai (South)	Mangaldai and Dalgaon thanas.	1	—
Mangaldai (North)	Kalaigaon, Paneri, Udalguri and Majbat thanas.	1	—
Tezpur (West) ..	Tezpur and Dhekiajuli thanas.	1	—
Tezpur (East) ..	Sootea, Behali and Gohpur thanas.	1	—

Name of Constituency	Extent of Constituency	No. of seats	Scheduled castes seats
Nowgong (West)..	Lahorighat, Dhing and Marigaon thanas (excluding all areas in the Mikir Hills) <i>plus</i> Juria mauza from Rupahi Hat thana.	1	—
Nowgong (South-East).	Raha and Jamunamukh thanas (excluding all areas in the Mikir Hills) <i>plus</i> the Lumding Kheraj Block.	1	—
Nowgong (North-East).	Nowgong, Kaliabor and Samaguri thanas (excluding all areas in the Mikir Hills) <i>plus</i> Rupahi Hat thana <i>less</i> Juria mauza.	2	1
Golaghat (North)..	Dergaon and Bokakhat thanas (excluding all areas in the Mikir Hills) <i>plus</i> Mahura and Khumtai mauzas from Golaghat thana.	1	—
Golaghat (South)..	Golaghat thana (excluding all areas in the Mikir Hills except Barpathar and Sarupathar mauzas) <i>less</i> Mahura and Khumtai mauzas.	1	—
Jorhat (South) ..	Titabar and Teok thanas..	1	—
Jorhat (North) ..	Jorhat and Majuli thanas	2	1
Sibsagar (West)..	Sibsagar and Amguri thanas excluding the portion of Dopdar Mauza in Amguri thana.	1	—
Sibsagar (East) ..	Nazira and Sonari thanas <i>plus</i> the portion of Dopdar Mauza in Amguri thana.	1	—
Dibrugarh (Central.)	Tinsukia, Bardubi and Jai-pur thanas.	1	—
Dibrugarh (West)	Dibrugarh Moran and Dhemaji thanas.	1	—
Dibrugarh (East)..	Doom Dooma, Digboi and Margherita thanas (excluding the Lakhimpur Frontier Tract).	1	—
North Lakhimpur	The whole of North Lakhimpur subdivision.	1	—
Sunamganj ..	The whole of Sunamganj Subdivision.	2	1
Habiganj (North)	Lakhai, Nabiganj, Baniyachung and Ajmiriganj thanas.	2	1

Name of Constituency	Extent of Constituency	No. of seats	Scheduled castes seats
Habiganj (South)	Habiganj, Madhabpur, Chunarighat and Bahubal thanas.	1	—
South Sylhet (West)	Maulvi Bazar, Srimangal and Kamalganj thanas	1	—
South Sylhet (East)	Kulaura and Rajnagar thanas.	1	—
Sylhet Sadr (South)	Fenchuganj, Golabganj, Balaganj and Biswanath thanas.	1	—
Sylhet Sadr (North)	Sylhet, Gowainghat, Kanairghat and Jaintiapur thanas	1	—
Karimganj (West)	Jaldhup and Patharkandi thanas.	1	—
Karimganj (East) ..	Karimganj, Badarpur and Ratabari thanas.	2	1
Hailakandi ..	The whole of Hailakandi subdivision.	1	—
Silchar ..	The whole of Silchar subdivision.	2	I

II.—MUHAMMADAN CONSTITUENCIES

Name of Constituency	Extent of Constituency	No. of seats
Dhubri (West) ..	Dhubri and Golakganj thanas.	1
Dhubri (South) ..	South Salmara and Mankachar thanas <i>plus</i> the following three plains mauzas of the Garo Hills district, <i>viz.</i> , Mahendraganj, Rangapani and Fulbari.	1
Dhubri (North) ..	Bilasipara, Kokrajhar, Gossaingaon and Bijni thanas.	1
Goalpara (West) ..	Lakhipur thana	1
Goalpara (East) ..	Goalpara, Dudnai and North Salmara thanas.	1
Barpeta ..	Barpeta and Tarabari thanas	1
Kamrup (South) ..	Gauhati, Palasbari, Chhaygaon, Boko, Kamalpur and Hajo thanas.	1
Kamrup (North) ..	Nalbari, Rargia and Barama thanas of the Kamrup Sadr subdivision and Sorbhog and Patacharkuchi thanas of the Barpeta subdivision.	1

Name of Constituency	Extent of Constituency	No. of seats
Nowgong (West) ..	Dhung, Lahorighat, Raha, Marigaon and Jamunamukh thanas (excluding all areas in the Mikir Hills) <i>plus</i> the Lumding Khe-raj Block.	1
Nowgong (East) ..	Nowgong, Samaguri, Rupahi Hat and Kaliabor thanas (excluding all areas within the Mikir Hills.)	1
Darrang	The whole of Darrang district	1
Sibsagar	The whole of Sibsagar district (excluding all areas in the Mikir Hills except Barpathar and Sarupathar mauzas).	1
Lakhimpur	The whole of Lakhimpur district (excluding the Lakhimpur Frontier Tract).	1
Sunamganj (West) ..	Tahirpur, Dharampasha and Sullat thanas	1
Sunamganj (Central) ..	Sunamganj thana	1
Sunamganj (East) ..	Chhatak thana	1
Sunamganj (South) ..	Derai and Jagannathpur thanas ..	1
Habiganj (North-West) ..	Baniyachung and Ajmiriganj thanas ..	1
Habiganj (North-East) ..	Habiganj and Nabiganj thanas	1
Habiganj (South-West) ..	Lakhai and Madhabpur thanas	1
Habiganj (South-East) ..	Chunarighat and Bahubal thanas ..	1
South Sylhet (West) ..	Maulvi Bazar and Srimangal thanas ..	1
South Sylhet (Central) ..	Rajnagar and Kamalganj thanas ..	1
South Sylhet (East) ..	Kulaura thana	1
Sylhet Sadr (Central) ..	Part of Sylhet Sadr thana containing Chaukidari Circles Nos. 1—41 and 51—55 (inclusive) including the Municipal area.	1
Sylhet Sadr (North) ..	Gowainghat and Jaintiapur thanas <i>plus</i> the North Eastern half of Kanaighat thana containing Chaukidari Circles Nos. 1—12, 15—20 and 32—34 (inclusive).	1
Sylhet Sadr (West) ..	Part of Sylhet Sadr thana containing Chaukidari Circles Nos. 42—50 and 56—67 (inclusive) and Biswanath thana.	1
Sylhet Sadr (East) ..	Golabganj thana <i>plus</i> the South-Western half of Kanaighat thana containing Chaukidari Circles Nos. 13, 14 and 21—31 (inclusive).	1
Sylhet Sadr (South) ..	Balaganj and Fenchuganj thanas ..	1

Name of Constituency	Extent of Constituency	No. of seats
Karimganj (West) ..	Jaldhup thana	1
Karimganj (Central) ..	Karimganj thana <i>less</i> Chaukidari Circles Nos. 22—28 (inclusive), 61, 62 and 64—68 (inclusive).	1
Karimganj (South) ..	Badarpur, Ratabari and Phatharkandi thanas <i>plus</i> the following Chaukidari Circles of Karimganj thana:—Nos. 22—28 (inclusive), 61, 62 and 64—68 (inclusive).	1
Hailakandi	The whole of Hailakandi subdivision ..	1
Silchar	The whole of Silchar subdivision ..	1

III.—WOMEN'S CONSTITUENCY

Women's (Shillong) ..	Shillong Municipality and Cantonment ..	1
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IV.—EUROPEAN CONSTITUENCY

European	The districts of Goalpara, Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur (excluding the Lakhimpur Frontier Tract), Sylhet, Cachar (excluding the North Cachar Hills), the Garo Hills and the British territory of the Khasi and Jaintia Hills.	1
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V.—INDIAN CHRISTIAN CONSTITUENCY

Indian Christian ..	The districts of Goalpara, Kamrup, Nowgong (excluding all areas in the Mikir Hills except the Lumding Kheraj Block), Darrang, Sibsagar (excluding all areas in the Mikir Hills except Barpathar and Sarupathar mauzas), Lakhimpur (excluding the Lakhimpur Frontier Tract), Sylhet and Cachar (excluding the North Cachar Hills).	1
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VI.—BACKWARD TRIBAL (PLAINS) CONSTITUENCIES

Goalpara (Tribal) ..	Kokrajhar and Bijni thanas of Goalpara district.	1
Kamrup (Tribal) ..	Nalbari, Barama, Rangia, Patancharkuchi and Sorbhog thanas of Kamrup district.	1
Lakhimpur and Majuli (Tribal).	North Lakhimpur subdivision of the Lakhimpur district <i>plus</i> the Majuli thana of the Jorhat subdivision of the Sibsagar district <i>plus</i> the Dhemaji thana of the Dibrugarh subdivision of the Lakhimpur district.	1
Nowgong (Tribal) ..	Raha, Marigaon and Jamunamukh thanas excluding all areas in the Mikir Hills.	1

Name of Constituency	Extent of Constituency	No. of seats.
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VI.—BACKWARD AREAS (HILLS) CONSTITUENCIES

Garo Hills (North) ..	Mauzas III, IV and V	1
Garo Hills (South) ..	Mauzas I, II, IX and X (Tura Town) ..	1
Shillong	The British territory of the Shillong subdivision <i>plus</i> the non-British areas in which the Municipality and Cantonment exercise jurisdiction.	1
Jowai	The whole of Jowai subdivision	1
Mikir Hills	The Mikir Hills (in Nowgong and Sibsagar districts) <i>less</i> Barpathar and Sarupathar mauzas in Golaghat subdivision and <i>less</i> the Lumding Kheraj Block in Nowgong district.	1

VIII.—PLANTING CONSTITUENCIES

European Planting ..	The districts of Goalpara, Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur (excluding the Lakhimpur Frontier Tracts) Sylhet and Cachar (excluding the North Cachar Hills).	7
Indian Planting (Assam Valley).	The districts of Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur (excluding the Lakhimpur Frontier Tract).	1
Indian Planting (Surma Valley).	The districts of Sylhet and Cachar (excluding the North Cachar Hills).	1

IX.—COMMERCE AND INDUSTRY CONSTITUENCIES

European Commerce and Industry.	The Province	1
Indian Commerce and Industry.	Ditto	1

X.—LABOUR CONSTITUENCIES (TEA GARDENS)

I.—IN LAKHIMPUR DISTRICT

First election

Doom Dooma (District Lakhimpur)	All gardens within a radius of three and a half miles from Doom Dooma police station.	1
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Second election

Tinsukia (District Lakhimpur).	All gardens within a radius of five miles from Tinsukia police station.
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Third election

Dibrugarh (District Lakhimpur).	All gardens within a radius of six miles from Dibrugarh police station.
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Name of Constituency	Extent of Constituency	No. of seats.	
II.—IN SIBSAGAR DISTRICT			
First election			
Jorhat (Sibsagar district).	All gardens in the Jorhat thana within the area included in the following boundaries :— North—Assam Trunk Road ; West—Jorhat Provincial Railway, Titabar Branch ; East—Thana boundary ; South—Thana boundary.	1	
Second election			
Nazira (Sibsagar district).	All gardens within Nazira thana which are within a radius of seven miles from Simalguri railway station.		
Third election			
Golaghat East. Sibsagar district).	All gardens within the mauzas of Dergaon, Gurjogonia, Kakodonga, Dakhinhengra, Kacharihat, Athgaon and Ghiladhari.	1	
III.—IN THE DARRANG DISTRICT			
First election			
Thakurbari (Darrang district).	All gardens within a radius of three and a half miles from Thakurbari railway station.		
Second election			
Biswanath (Darrang district).	All gardens within a radius of six miles from Pabhoi inspection bungalow.	1	
Third election			
Paneri (Darrang district).	All gardens within a radius of seven miles from Paneri club house.		
IV.—IN THE SURMA VALLEY			
First election.			
Silchar— (District Cachar).	All gardens in the Silchar thana which lie south of the Barak river.	1	
Second election			
Srimangal (District Sylhet).	All gardens within the jurisdiction of the Srimangal police station.		
Third election			
Longai Valley (District Sylhet).	All gardens in the Longai Valley within the jurisdiction of the Patharkandi police station.		

THIRTEENTH SCHEDULE

BACKWARD TRIBES

* * * * *

PART V

ASSAM

The following tribes and communities :—

1. Kachari.
2. Boro or Boro-Kachari.
3. Rabha.
4. Miri.
5. Lalung.
6. Mikir.
7. Garo.
8. Hajong.
9. Deori.
10. Abor.
11. Mishmi.
12. Dafla.
13. Singpho.
14. Khampti.
15. Any Naga or Kuki tribe.
16. Any other tribe or community for the time being designated by the Governor in his discretion.

APPENDIX III

THE GOVERNMENT OF INDIA (PROVINCIAL
LEGISLATIVE COUNCILS) ORDER, 1936

AT THE COURT AT BUCKINGHAM PALACE

The 30th day of April, 1936

Present

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

Whereas by section two hundred and ninety-one of, and the Fifth Schedule to, the Government of India Act, 1935 (hereafter in this Order referred to as "the Act") His Majesty in Council is empowered to make provision with respect to certain matters connected with Provincial Legislative Councils:

And whereas a draft of this Order has been laid before Parliament in accordance with the provisions of sub-section (1) of section three hundred and nine of the Act and an address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order:

NOW, THEREFORE, His Majesty, in the exercise of the powers conferred on Him as aforesaid and of all other powers enabling Him in that behalf, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY AND GENERAL

Introductory

1. This Order may be cited as "The Government of India (Provincial Legislative Councils) Order, 1936."

2.—(1) In this Order, except where the context otherwise requires—

"Executive Council" means the Executive Council of the Governor-General or a Governor;

"Legislature" includes any Legislature or Legislative Council under the Government of India Act, or any Act repealed by that Act;

"Minister" means a Minister under the Act or the Government of India Act;

"prescribed," except in the phrase "the prescribed date," means prescribed by an Act of the Provincial Legislature or by rules;

"rules" means rules made by the Governor under paragraph twenty of the Fifth Schedule to the Act;

"total income" means total income as computed for the purposes of the Indian Income-tax Act, 1922;

And, subject as aforesaid and to any other provisions of this Order, expressions to which a meaning is assigned by the Sixth Schedule to the Act, either generally or in relation to any particular Province, have, except where the context otherwise requires, the same meanings for the purposes of this Order, either generally or in relation to that Province, as the case may be.

(2) The fact that one of two constituencies is an urban, and the other a rural, constituency shall not prevent them being deemed to be constituencies of the same communal description, if they are both general constituencies, or constituencies assigned to a specified community, and the expression "seat of the same communal description" shall be construed accordingly.

(3) For the purposes of any reference in this Order to persons assessed to income-tax in any financial year and having in the year in respect of which the assessment was made a total income of not less than a specified amount, a person who is a partner in a firm which is assessed to income-tax shall be deemed to be himself assessed in respect of his share of the firm's income on which income-tax is so assessed, and the amount to be included in his total income in respect of that share shall be such sum as may be certified in the prescribed manner.

(4) Any reference in this Order to all or any of the provisions of any Indian Act shall be construed as a reference to those provisions as amended by or under any other Act, or, if those provisions are repealed and re-enacted with or without modification, to the provisions so re-enacted.

(5) If the boundaries of any district or other administrative area mentioned in this Order are altered, any reference in this Order to that district or area shall, as from such date or dates as may be fixed by the Governor, exercising his individual judgment, either for all purposes, or for particular purposes, of this Order, be taken as a reference to the district or area as altered.

(6) If any question arises with respect to any qualification dependent on the holding of a title, order or decoration, the question shall be referred to the Governor-General in his discretion and his decision shall be final.

(7) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Delimitation of Territorial Constituencies

3.—(1) The territorial constituencies for the election of persons to fill seats in the Provincial Legislative Councils shall be as specified in the tables in the Schedule to this Order.

(2) Any reference in this Part of this Order to a territorial constituency shall be construed as a reference to one of the territorial constituencies aforesaid, and any reference in any of the subsequent Parts of this Order to a territorial constituency shall be construed as a reference to one of the said constituencies for the Province to which the Part in question relates.

(3) In the case of Madras and Bombay the number of seats to be filled by elections in the various territorial constituencies shall be as specified in the third column of Parts I and II of the Schedule to this Order.

In the case of Bengal, the United Provinces, Bihar and Assam one seat shall be filled by an election in each constituency, except that in Bengal three seats shall be so filled in the European constituency.

4. There shall be an electoral roll for every territorial constituency, and no person who is not, and except as expressly provided by the Fifth Schedule to the Act and this Order, every person who is, for the time being included in the electoral roll for any such constituency shall be entitled to vote in that constituency.

5. The electoral rolls for the territorial constituencies shall be made up and from time to time in whole or in part revised by reference to such date, in this Order referred to as "the prescribed date," as may be directed in each case by the Governor, exercising his individual judgment.

6. No person shall be included in the electoral roll for any territorial constituency unless he has attained the age of twenty-one years and is either—

- (a) a British subject ; or
- (b) the Ruler or a subject of a Federated State ; or
- (c) if and so far as it is so prescribed with respect to any Province, and subject to any prescribed conditions, the Ruler or a subject of any other Indian State.

7. No person shall be included in the electoral roll for, or vote at any election in, any territorial constituency if he is of unsound mind and stands so declared by a competent Court.

8. No person shall be included in the electoral roll for a Muhammadan constituency, a European constituency or an Indian Christian constituency unless he is a Muhammadan; a European or an Indian Christian, as the case may be.

9. No person who is or is entitled to be included in the electoral roll for any Muhammadan constituency, European constituency or Indian Christian constituency in any Province shall be included in the electoral roll for a general constituency in that Province.

10. Notwithstanding anything in the Indian Income-tax Act, 1922, it shall be the duty of the appropriate Income-tax Officers to give to any person charged by law with the duty of inquiring into the qualifications of electors such information as is necessary for the purpose of enabling him to discharge that duty.

11.—(1) No person shall in any Province—

- (a) at the first elections held for the purpose of constituting the Legislative Council of that Province ; or
- (b) at the elections held in every third year thereafter to fill the seats of members retiring on the expiration of their respective terms of office,

vote in more than one territorial constituency, and if any person votes in more than one territorial constituency in contravention of the provisions of this paragraph, his votes in all those constituencies shall be void.

(2) In each Province such provisions, if any, as may be prescribed shall have effect for the purpose of preventing persons being included in the electoral roll for more than one territorial constituency.

(3) No person shall at any election vote more than once in the same territorial constituency and, if he does so, all his votes in that constituency shall be void.

12. No person shall be included in the electoral roll for, or vote at any election in, a territorial constituency if he is for the time being disqualified from voting under the provisions of any such Order in Council, Act of the Provincial Legislature or rules made by the Governor as may be made or passed under the Act with respect to corrupt practices and other offences in connection with elections, and the name of any person who becomes so disqualified shall forthwith be struck off all the electoral rolls for territorial constituencies in which it may be included.

13. No person shall vote at an election in a territorial constituency if he is for the time being undergoing a sentence of transportation, penal servitude or imprisonment.

14. The following provisions shall have effect with respect to the enfranchisement of women in respect of the qualifications of their husbands :—

(a) a woman who, at the date of the death of her husband, is included in an electoral roll for a territorial constituency by virtue of his qualifications shall, notwithstanding anything in the subsequent provisions of this Order, continue to be on the roll for that constituency unless she remarries or becomes disqualified under the foregoing provisions of this Order for inclusion in that roll :

(b) not more than one woman shall, at any one time, appear on the electoral rolls for the territorial constituencies of a Province in respect of the qualifications of any particular man, and any question which of several women is to be selected for inclusion shall be determined in the prescribed manner :

Provided that, if a woman, who is entitled by virtue of subparagraph (a) of this paragraph to remain on the roll of a territorial constituency, changes her place of residence, then, if she so desires, she may, on any subsequent revision of the roll, be transferred to the roll of such other territorial constituency as may be appropriate.

15. For the purposes of this Order any property owned, held or occupied or payment made by, or assessment made on, a person as a trustee, guardian, administrator or receiver, or in any other fiduciary capacity, shall, except as otherwise expressly provided in this Order, be left out of account.

Qualifications of Candidates

16.—(1) The provisions of this paragraph shall have effect with respect to the qualifications to be possessed by members of the Legislative Council of a Province.

(2) A person shall not be qualified to be chosen to fill a seat which is filled by an election in a territorial constituency unless he is entitled to vote in the choice of a member to fill that seat or any other seat of the same communal description in the same Council.

(3) A person shall not be qualified to be chosen to fill a seat to be filled by a person elected by the members of the Legislative Assembly of a Province unless he is entitled to vote in the choice of a member to fill some seat in the Legislative Council of that Province.

(4) A person shall be qualified to be chosen to fill a seat which is to be filled by a person chosen by the Governor in his discretion if he is resident in the Province and is not disqualified to hold a seat by any of the provisions of the Act.

General

17.—(1) The dates on which nominations are to be made and scrutinised, polls held and other acts done in connection with elections to a Provincial Legislative Council shall be fixed by the Governor in his discretion.

(2) Nothing in this paragraph shall be construed as preventing Acts of the Provincial Legislature or rules from making general provision with respect to the intervals which are to elapse between the successive stages of an election.

18. At an election in a territorial constituency where more than one seat is to be filled on a poll a voter shall have as many votes as there are seats to be filled and may give all those votes to any one candidate, or may distribute them between such candidates in such manner as he thinks it :

Provided that in the European constituency in Bengal a voter shall not give more than one vote to any one candidate.

19. If, when a poll has been taken at an election, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be given by the Returning Officer to the candidate, or, as the case may be, the candidates, selected by lot drawn in the presence of the Returning Officer in such manner as he may determine.

20. At any election by the members of a Provincial Legislative Assembly to fill seats in the Provincial Legislative Council, the returning officer shall be nominated by the Governor in his discretion, and nominations shall be made and scrutinised, polls held, and other acts done in connection with the election to, by, or before the returning officer, or persons who are under his control or have been placed thereunder for the purposes of the election,

21. If a person is elected to more than one seat in a Provincial Legislative Council, then, unless within the prescribed time he resigns all but one of the seats, all the seats shall become vacant.

22. The Governor of a province may at any time vary the name assigned to a territorial constituency if for any reason he deems it expedient so to do.

23. Anything which under the provisions of the Act, or of this Order, is required or authorised to be done by, to or before the Governor of a Province in connection with the preparation of electoral rolls or the holding of elections, or otherwise for the purpose of constituting the Legislative Council of the province in due time (whether or not the Governor is to act in his discretion or to exercise his individual judgment) shall, before the commencement of Part III of the Act, be done by, to or before the Governor in Council.

* * * *

PART VII

ASSAM

Requirement as to Residence

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he has a place of residence in the constituency, and a person shall be deemed to have a place of residence in a constituency if he ordinarily lives in the constituency or has his family dwelling place in the constituency and occasionally occupies it :

Provided that in relation to the European constituency the provisions of this paragraph shall be deemed to be complied with in relation to any person if he is actually employed anywhere in Assam but is absent from Assam on leave from his employment.

Ordinary Qualifications

2. Subject to the provisions of Part I of this Order and to any overriding provisions of this Part of this Order, a person shall be qualified to be included in the electoral roll for any territorial constituency if he either—

- (a) was in the previous financial year assessed to income-tax and had in the year in respect of which the assessment was made a total income of not less than three thousand rupees ; or
- (b) is the owner of land in the constituency, the land revenue on which has been assessed or is assessable at not less than five hundred rupees per annum ; or
- (c) is liable to pay local rates amounting in the aggregate to not less than fifty rupees per annum in respect of land in the constituency ; or

- (d) holds any title, order or decoration conferred by or on behalf of His Majesty, not being lower than Diwan Bahadur, Sadar Bahadur, Khan Bahadur, Rai Bahadur, or Rao Bahadur ; or
- (e) has been awarded by any Government in British India a civil, military or political pension of not less than one hundred rupees per month ; or
- (f) is or has been either—
 - (i) a non-official member of any Legislature in British India ; or
 - (ii) a member of an Executive Council or a Minister in British India ; or
 - (iii) a Chancellor, Pro-Chancellor, Vice-Chancellor, Pro-Vice-Chancellor, Fellow or Honorary Fellow of, or a member of the Senate or Court of, any University constituted by law in British India ; or
 - (iv) a judge of the Federal Court, any High Court, Chief Court, or Judicial Commissioner's Court in British India ; or
 - (v) the mayor or sheriff of Madras, Calcutta, or Bombay ; or
 - (vi) the non-official chairman of a municipal board or small town committee constituted under the Assam Municipal Act, 1923, or of a local board constituted under the Assam Local Self-Government Act, 1915 ; or
 - (vii) the non-official chairman of any central bank or banking union which is a registered society within the meaning of section two of the Co-operative Societies Act, 1912, and which does not operate solely outside the Province.

Additional Qualifications for Women

3. Subject as aforesaid, a person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency if she is the wife of a person who—

- (a) was in the previous financial year assessed to income-tax and had in the year in respect of which the assessment was made a total income of not less than six thousand rupees ; or
- (b) is the owner of land in the constituency, the land revenue on which has been assessed, or is assessable, at not less than one thousand rupees per annum ; or

- (c) is liable to pay local rates amounting in the aggregate to not less than one hundred rupees per annum in respect of land in the constituency ; or
- (d) holds any such title or honour, or is in receipt of any such pension as is mentioned in sub-paragraphs (d) and (e) of the last preceeding paragraph.

Special qualifications for Scheduled Castes

4. Subject as aforesaid, a person who is a member of the scheduled castes shall also be qualified to be included in the electoral roll for any territorial constituency if he—

- (a) was in the previous financial year assessed to income-tax ; or
- (b) is the owner of land in the constituency, the land revenue on which has been assessed, or is assessable, at not less than one hundred and fifty rupees per annum ; or
- (c) is liable to pay local rates amounting in the aggregate to not less than fifteen rupees per annum in respect of land in the constituency.

Special Provision as to Shillong

5. A person shall be qualified to be included in the electoral roll for the Hills General Constituency, the Lower Assam Valley Muhammadan Constituency, or the Surma Valley European Constituency if he would be so qualified if so much of the areas under the jurisdiction of the Shillong Municipal Board and the Shillong Cantonment Authority as is not part of British India were included in the constituency.

Supplementary

6. Subject to the provisions of this paragraph, where property is held or payments are made jointly by, or assessments made jointly on, the members of a joint family, the family shall be adopted as the unit for deciding whether the necessary qualification exists, and, if it does exist, the person qualified shall be, in the case of a Hindu joint family, the manager thereof, and in other cases the member authorised in that behalf by the family themselves :

Provided that any other member of any such family shall also be qualified if the proportion of the joint property, payment or assessment which corresponds with his share therein would be sufficient for him to be qualified if he held it separately.

M. P. A. HANKEY,

THE SCHEDULE

* * *

PART VI

ASSAM CONSTITUENCIES

Name of Constituency	Extent of Constituency
I.—General Constituencies	
Goalpara	The Goalpara district and the three plains mauzas of Mahendraganj, Rangapani and Fulbari in the Garo Hills district.
Kamrup	The Kamrup district.
Darrang	The Darrang district.
Nowgong	The Nowgong district (excluding all areas in the Mikir Hills except the Lumding Kheraj Block).
Sibsagar	The Sibsaagar district (excluding all areas in the Mikir Hills except Barpathar and Sarupathar mauzas).
Lakhimpur	Lakhimpur district (excluding the Lakhimpur Frontier Tract).
Cachar	The Cachar district (excluding the North Cachar Hills).
Garo Hills	The Garo Hills (excluding the three plains mauzas of Mahendraganj, Rangapani and Fulbari); the British territory of the Khasi and Jaintia Hills, and the Mikir Hills (excluding the Barpathar and Sarupathar mauzas and the Lumding Kheraj Block).
Sylhet (West)	The Habiganj and Sunamganj subdivisions, and the Maulvi Bazar and Srimangal thanas of the South Sylhet subdivision.
Sylhet (East)	The North Sylhet and Karimganj subdivisions and the Kulaura, Rajnagar and Kamalganj thanas of the South Sylhet subdivision.

Name of Constituency	Extent of Constituency
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II.—Muhammadan Constituencies

Lower Assam Valley ...	The districts of Goalpara, Kamrup, Darrang ; the British territory of the Khasi and Jaintia Hills, and the Garo Hills.
Upper Assam Valley ...	The districts of Nowgong, Sibsagar and Lakhimpur (excluding the Lakhimpur Frontier Tract).
Surma Valley (East) ...	The Cachar district (excluding the North Cachar Hills), and the Karimganj subdivision of the Sylhet district.
Surma Valley (Central) ...	The North Sylhet subdivision and the Kulaura thana of the South Sylhet subdivision.
Surma Valley (North-West)	The Sunamganj subdivision and the Ajmiriganj and Nabiganj thanas of the Habiganj subdivision.
Surma Valley (South-West).	The Habiganj subdivision (excluding the Ajmiriganj and Nabiganj thanas) and the South Sylhet subdivision (excluding the Kulaura thana).

III.—European Constituencies

Assam Valley ...	...	The districts of Goalpara, Kamrup, Nowgong, Darrang, Sibsagar and Lakhimpur (excluding the Lakhimpur Frontier Tract).
Surma Valley ...	...	The districts of Sylhet and Cachar (excluding the North Cachar Hills), the Garo Hills and the British territory of the Khasi and Jaintia Hills).

APPENDIX IV

THE GOVERNMENT OF INDIA (SCHEDULED CASTES) ORDER, 1936

AT THE COURT AT BUCKINGHAM PALACE

The 30th day of April, 1936

Present**THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL**

WHEREAS by certain provisions in the First, Fifth and Sixth Schedules to the Government of India Act, 1935, His Majesty in Council is empowered to specify the castes, races or tribes or parts of or groups within castes, races or tribes which are to be treated as the scheduled castes for the purposes of those Schedules :

AND WHEREAS a draft of this Order was laid before Parliament in accordance with the provisions of sub-section (1) of section three hundred and nine of the said Act and an Address has been presented by both Houses of Parliament praying that an Order may be made in the terms of this Order :

NOW, THEREFORE, His Majesty, in the exercise of the said powers and of all other powers enabling Him in that behalf, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :—

1. This Order may be cited as " The Government of India (Scheduled Castes) Order, 1936."

2. Subject to the provisions of this Order, for the purposes of the First, Fifth and Sixth Schedules to the Government of India Act, 1935, the castes, races or tribes, or parts of or groups within castes, races or tribes specified in Parts I to IX of the Schedule to this Order shall, in the Provinces to which those Parts respectively relate, be deemed to be scheduled castes so far as regards members thereof resident in the localities specified in relation to them respectively in those Parts of that Schedule.

3. Notwithstanding anything in last preceding paragraph—

- (a) no Indian Christian shall be deemed to be a member of a scheduled caste ;
- (b) in Bengal no person who professes Buddhism or a tribal religion shall be deemed to be a member of any scheduled caste ;

and if any question should arise as to whether any particular person does or does not profess Buddhism or a tribal religion, that question shall be determined according to the answers which he may make, in the prescribed manner, to such question as may be prescribed.

4. In this Order the expression "Indian Christian" has the same meaning as it has for the purposes of Part I of the First Schedule to the Government of India Act, 1935, and the expression "prescribed" means prescribed by rules made by the Governor of Bengal, exercising his individual judgment.

5. Any reference in the Schedule to this Order to any division, district, subdivision, tahsil or municipality shall be construed as a reference to that division, district, subdivision, tahsil or municipality as existing on the first day of July, nineteen hundred and thirty-six.

M. P. A. Hankey.

SCHEDULE

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PART VIII.—ASSAM

Scheduled castes :—

(1) In the Assam Valley :—

Namasudra	Hira	Mehtar, or Bha ngi
Kaibartta	Lalbegi	Bansphor
Bania, or Brittial-Bania		

(2) In the Surma Valley :—

Mali or Bhuimali	Sutradhar	Kaibartta, or Jaliya
Dhupi, or Dhobi	Muchi	Lalbegi
Dugla, or Dholi	Patni	Mehtar, or Bhanghi
Jhalo and Malo	Namasudra	Bansphor
Mahara		

APPENDIX V

THE GOVERNMENT OF INDIA (EXCLUDED
AND PARTIALLY EXCLUDED AREAS)
ORDER, 1936

AT THE COURT AT BUCKINGHAM PALACE

The 3rd day of March, 1936

Present

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by sub-section (1) of section ninety-one of the Government of India Act, 1935 (hereinafter in this Order referred to as "the Act"), His Majesty in Council is empowered to declare what areas are to be excluded areas and partially excluded areas within the meaning of the Act :

AND WHEREAS a draft of this Order has been laid before Parliament in accordance with the provisions of sub-section (1) of section three hundred and nine of the Act and an Address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order :

NOW, THEREFORE, His Majesty, in the exercise of the powers conferred on him as aforesaid and of all other powers enabling him in that behalf, is pleased by and with the advice of his Privy Council to order, and it is hereby ordered as follows :—

1. This Order may be cited as "The Government of India (Excluded and Partially Excluded Areas), Order, 1936."

2. The areas specified in Part I of the Schedule to this Order shall be the excluded areas, and the areas specified in Part II of that Schedule the partially excluded areas, within the meaning of the Act.

3. Any reference in the said Schedule to any District, administrative area or estate shall be construed as a reference to that District, area or estate as existing on the first day of January, nineteen hundred and thirty-six.

M. P. A. Hankey.

SCHEDULE

PART I—EXCLUDED AREAS

* * * * *

Assam

The North-East Frontier (Sadiya, Balipara and Lakhimpur) Tracts.

The Naga Hills District.

The Lushai Hills District.

The North Cachar Hills Subdivision of the Cachar District.

PART II—PARTIALLY EXCLUDED AREAS

* * * * *

Assam

The Garo Hills District.

The Mikir Hills (in the Nowgong and Sibsagar Districts.)

The British portion of the Khasi and Jaintia Hills District, other than the Shillong Municipality and Cantonment.

* * * * *

APPENDIX VI (A)

THE GOVERNMENT OF INDIA (PROVINCIAL ELECTIONS) (CORRUPT PRACTICES AND ELECTION PETITIONS) ORDER, 1936

AT THE COURT AT BUCKINGHAM PALACE

The 3rd day of July, 1936

Present

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

WHEREAS by section two hundred and ninety-one of the Government of India Act, 1935 (hereafter in this Order referred to as "the Act") His Majesty in Council is empowered to make provision with respect to certain matters connected with elections under the Act:

AND WHEREAS by sub-section (1) of section sixty-nine of the Act His Majesty in Council is empowered to declare certain offences and practices to be offences and practices involving disqualification for membership of Provincial Legislatures and to fix the periods for which the disqualifications are to operate:

AND WHEREAS a draft of this Order has been laid before Parliament in a cordance with the provisions of sub-section (1) of section three hundred and nine of the Act and an Address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order:

NOW, THEREFORE, His Majesty, in the exercise of the powers conferred on him as aforesaid and of all other powers enabling him in that behalf, is pleased by and with the advice of his Privy Council to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

1. This Order may be cited as "The Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936."

2. The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3.—(1) In this Order, except where it is otherwise expressly provided or the context otherwise requires—

"election" means an election to fill a seat or seats in either Chamber of a Provincial Legislature;

"prescribed" means prescribed by Act of the Provincial Legislature or by Rules;

“ Rules ” means rules made under paragraph twenty of the Fifth Schedule to the Act ;

“ sign ” in relation to a person who is unable to write his name means authenticate in such manner as may be prescribed ;

“ oath ” includes affirmation.

(2) The provisions of Parts II and III of this Order shall, in relation to constituencies in which seats are reserved for candidates of any particular class, or in which the final voting is by members of an electoral college previously constituted for that purpose, have effect with such exceptions and subject to such adaptations and modifications as may be prescribed, but subject as aforesaid, any primary election for the purpose of electing candidates for reserved seats, or of constituting any such electoral college, shall be deemed to be part of the election of persons to fill the seats to be filled in the constituency.

(3) Where under any of the provisions of this Order anything is to be prescribed, different provision may be made for different cases or classes of cases.

(4) Any reference in this Order to any of the provisions of any Indian Act shall be construed as a reference to those provisions as amended by or under any other Act or, if those provisions are repealed and re-enacted with or without modification, to the provisions so re-enacted.

(5) Anything which under the provisions of the Act or of this Order is required or authorised to be done by, to or before the Governor of a Province in connection with any matters to which this Order relates (whether or not the Governor is to act in his discretion or to exercise his individual judgment) shall before the commencement of Part III of the Act be done by, to or before the Governor in Council or, in the case of Sind or Orissa, the Governor.

PART II

ELECTION AGENTS AND EXPENSES

1. Every person nominated as a candidate at an election shall at the prescribed time and in the prescribed manner appoint either himself or some one other person to be his election agent.

2. No person shall be appointed an election agent who is disqualified from being an election agent under the subsequent provisions of this Order.

3.—(1) Any revocation of the appointment of an election agent, whether he be the candidate himself or not, shall be signed by the candidate, and shall operate from the date on which it is lodged with the returning officer.

(2) In the event of such a revocation or of the death of an election agent, whether that event occurs before or during the election, or after the election but before a return of the candidate's election expenses has been lodged in accordance with the

provisions of the next but one succeeding paragraph, the candidate shall appoint forthwith either himself or some other person to be his election agent, and shall give notice in writing of the appointment to the returning officer.

4. Every election agent shall, for each election for which he is appointed election agent, keep separate and regular books of account, and shall enter therein such particulars of expenditure in connection with the election as may be prescribed.

5.—(1) Within the prescribed time after every election there shall be lodged with the returning officer in respect of each person who has been nominated as a candidate a return of the election expenses of that person signed both by him and his election agent.

(2) Every such return shall be in such form and shall contain such particulars as may be prescribed, and shall be accompanied by declarations in the prescribed form by the candidate and his election agent made on oath before a magistrate.

(3) Notwithstanding anything in this paragraph, where a candidate is owing to absence from India unable to sign the return of election expenses and to make the required declaration, the return shall be signed and lodged by the election agent only and shall be accompanied by a declaration by the election agent only, and the candidate shall within fourteen days after his return to India cause to be lodged with the returning officer a declaration made on oath before a magistrate in such form as may be prescribed.

6. In each Province provision shall be made, by an Act of the Provincial Legislature or by Rules, fixing the maximum scales of election expenses at elections and the numbers and descriptions of persons who may be employed for payment in connection with elections :

Provided that no provision need be so made in any Province with respect to any election held before the expiration of two years from the commencement of Part III of the Act.

7. Except so far as may be prescribed, this Part of this Order does not apply to an election by the members of a Provincial Legislative Assembly to fill seats in the Provincial Legislative Council.

PART III

DECISION OF DOUBTS AND DISPUTES AS TO THE VALIDITY OF AN ELECTION AND DISQUALIFICATIONS FOR CORRUPT PRACTICES

1. In this Part of this Order and in the First Schedule to this Order, except where it is otherwise expressly provided or the context otherwise requires—

“ agent ” includes an election agent and any person who, on the trial of an election petition, is held by the Commissioners to have acted as an agent in connection with the election with the knowledge or consent of the candidate :

- “ candidate ” means a person who has been or claims to have been duly nominated as a candidate at any election, and a candidate who, with the election in prospect, has held himself out as a prospective candidate, shall be deemed to have been a candidate as from the time when he began so to hold himself out ;
- “ electoral right ” means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election ;
- “ returned candidate ” means a candidate whose name has been published in the prescribed manner as duly elected ;
- “ corrupt practice ”, in relation to an election by the members of a Provincial Legislative Assembly to fill seats in the Provincial Legislative Council, means one of the practices specified in Parts I and II of the First Schedule to this Order, and in relation to any other election, means one of the practices specified in Parts I II and III of that Schedule.

2. No election shall be called in question except by an election petition presented in accordance with the provisions of this Part of this Order,

3.—(1) An election petition against any returned candidate may be presented to the Governor—

- (a) by any candidate or elector on any ground ;
- (b) by an officer empowered in that behalf by the Governor, exercising his individual judgment, on the ground that the election has not been a free election by reason of the large number of cases in which undue influence or bribery has been exercised or committed.

In this paragraph, “ elector ”, in relation to a commerce and industry, mining or planting constituency, includes all the persons included in the electoral roll as the nominees of any body notwithstanding that only one of them is entitled to vote.

(2) A petitioner may, if he so desires, in addition to calling in question the election of the returned candidate, claim a declaration that he himself has been duly elected, but such a declaration shall only be claimed on one or other of the following grounds—

- (a) that in fact the petitioner received a majority of the valid votes ; or
- (b) that but for votes obtained for the returned candidate by corrupt practices, the petitioner would have obtained a majority of the valid votes.

4.—(1) Unless the Governor, exercising his individual judgment, dismisses a petition for non-compliance with the prescribed requirements, he shall, exercising his individual judgment, appoint as Commissioners for the trial of the petition three persons who are or have been, or are eligible to be appointed, judges of a High Court, and shall appoint one of them to be the President :

Provided that nothing in this sub-paragraph shall be deemed to prevent the appointment of the President of a Commission before the other Commissioners are appointed.

(2) Subject to the provisions of this paragraph, all applications and proceedings in connection with the petition shall be dealt with by, and carried on by or before, the Commissioners.

(3) Where in respect of an election in a constituency more petitions than one are presented, the Governor shall refer all those petitions to the same Commissioners, who may at their discretion inquire into the petitions either separately or in one or more groups, as they think fit.

(4) If the services of any Commissioner are not available for the purposes of the inquiry or if during the course of the inquiry any Commissioner is unable to continue to attend thereat, the Governor, exercising his individual judgment, shall appoint another Commissioner and the inquiry shall recommence before the Commission as so reconstituted :

Provided that the Commissioners may direct that any evidence already recorded shall remain upon record, and in that case it shall not be necessary to re-examine those witnesses who have already been examined and discharged.

(5) References to the Commissioners in this Part of this Order shall, as respects any matter to be done before the commencement of the inquiry, be deemed to be references to the President.

5. When at an inquiry into an election petition the Commissioners so order, the Advocate-General of the Province, or some persons acting under his instructions, shall attend and shall take such part therein as the Commissioners may direct.

6. Subject to the provisions of this Part of this Order, Acts of the Provincial Legislature and Rules may regulate the form of election petitions, the time and manner in which they are to be presented, the persons who are to be made parties thereto, the procedure to be adopted in connection therewith and the circumstances in which petitions are to abate, or may be withdrawn, and in which new petitioners may be substituted, may require security to be given for costs and may authorise the Governor, exercising his individual judgment, to dismiss petitions for non-compliance with the prescribed requirements.

7. (1) Subject to the provisions of this paragraphs, if in the opinion of the Commissioners—

- (a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by any corrupt practice ; or
- (b) any corrupt practice specified in Part I of the First Schedule to this Order has been committed in the interests of a returned candidate ; or
- (c) the result of the election has been materially affected by the improper acceptance or rejection of any nomination, or by reason of the fact that any person nominated was not qualified or was disqualified for election, or by the improper reception or refusal of a vote, or

by the reception of any vote which is void, or by any non-compliance with the provisions of the Act or of this Order, or of any Act of the Provincial Legislature or Rules relating to the election, or by any mistake in the use of any prescribed form ; or

(d) the election has not been a free election by reason of the large number of cases in which bribery or undue influence has been exercised or committed,
the election of the returned candidate shall be void.

(2) If the Commissioners report that a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice specified in Part I of the First Schedule to this Order, but further report that the candidate has satisfied them that—

- (a) no corrupt practice was committed at the election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders, and without the sanction or connivance, of the candidate or his election agent ;
- (b) the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election ;
- (c) the corrupt practices mentioned in the report were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election ; and
- (d) in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents,

then the Commissioners may find that the election of the candidate is not void.

(3) If a person (not being entitled so to do) votes more than once at the same election, all his votes shall be deemed for the purposes of this paragraph to be void.

8.—(1) At the conclusion of the inquiry the Commissioners shall report whether the returned candidate, or any person who has lodged a petition and claimed a seat, has been duly elected and in so reporting shall have regard to the provisions of the last preceding paragraph.

*(2) The report shall further include a recommendation by the Commissioners as to the total amount of costs which are payable and the persons by and to whom the costs should be paid.

Any such recommendation may include a recommendation for the payment to the Advocate-General of the Province or a person acting under his instructions, attending the trial in pursuance of an order of the Commissioners, of costs in respect of that attendance, but shall not include a recommendation for the payment of costs in respect of any other Government expenditure in connection with the inquiry.

(3) The report shall be signed by all the Commissioners and the Commissioners shall forthwith forward their report to the Governor, who on receipt thereof shall issue orders in accordance

*Inserted by paragraph 4 of the Government of India (Provincial Legislatures) (Miscellaneous Provisions) Order 1936.

with the report and publish the report in the Government Gazette of the Province, and the orders of the Governor shall be final.

9. If either in their report or upon any other matter there is a difference of opinion among the Commissioners the opinion of the majority shall prevail and their report shall be expressed in terms of the views of the majority.

10. Where any charge is made in an election petition of any corrupt practice, the Commissioners shall record in their report—

(a) a finding whether a corrupt practice has or has not been proved to have been committed by any candidate or his agent, or with the connivance of any candidate or his agent, and the nature of that corrupt practice ; and

(b) the names of all persons, if any, who have been proved at the inquiry to have been guilty of any corrupt practice and the nature of that practice with any such recommendations as the Commissioners may think proper to make for the exemption of any persons from any disqualifications which they may have incurred in this connection under paragraphs two to five of Part IV of this Order ;

Provided that no person shall be so named in the report unless he has been given a reasonable opportunity of showing cause why his name should not be so recorded.

PART IV

DISQUALIFICATIONS

1. The offences and practices specified, in relation to certain elections, in the Second Schedule to this Order shall, for the periods respectively specified in relation to those offences and practices in that Schedule, entail disqualification for membership of any Provincial Legislature.

2. If any person—

(a) is, in connection with an election to a Provincial Legislature, the Coorg Legislative Council or a local body in British India, convicted of an offence under Chapter IXA of the Indian Penal Code punishable with imprisonment for a term exceeding six months ; or

(b) is after an inquiry under Part III of this Order reported as guilty of any such corrupt practice as is specified in Part I or Part II of the First Schedule to this Order, he shall, for a period of six years from the date of the conviction or report, be disqualified for voting at any election.

3. If, in relation to any election (other than an election by the members of a Provincial Legislative Assembly to fill seats in the Provincial Legislative Council) any person is after such an inquiry as aforesaid reported as guilty of any such corrupt practice as is specified in Part III of the said Schedule he shall be disqualified for voting at any election for a period of four years from the date of the report,

4. Where under either of the two last preceding paragraphs a person is, in connection with an election in a commerce and industry, mining or planting constituency, disqualified for voting for any period, then, if that person was at the date of the election either—

- (a) included in the electoral roll for the constituency as the nominee of a firm, Hindu joint family or corporation entitled to nominate persons for inclusion therein ; or
- (b) a member of any such firm or Hindu joint family, or a director, managing agent or manager of any such corporation, or a person authorised to sign the name of any such firm, Hindu joint family or corporation in the ordinary course of its business ;

the firm, family or corporation shall, for the like period, be disqualified from nominating persons for inclusion in the electoral roll of any commerce and industry, mining or planting constituency.

5. If default is made in making the return of the election expenses of any person who has been nominated as a candidate at an election to which Part II of this Order applies, or if such a return is found, either by Commissioners holding an inquiry into the election or by any court in a judicial proceeding, to be false in any material particular, the candidate and his election agent shall be disqualified for voting at any election for a period of five years from the date by which a return was required to be lodged.

6. Every person shall be disqualified for voting at any election who is for the time being disqualified for voting at elections to the Federal Legislature by reason of misconduct in connection with an election to that Legislature, or by reason of a default in making, or of the falsity of, any return of election expenses at any election to that Legislature.

Reference in this paragraph to the Federal Legislature shall until the establishment of the Federation be construed as references to the Indian Legislature

7. Any person who is for the time being disqualified under the foregoing provisions of this Part of this Order for being a member of a Provincial Legislature, or for voting at elections, shall, so long as the disqualification exists, also be disqualified for being an election agent at any election.

8. Any disqualification under paragraphs two to five of this Part of this Order arising in connection with an election to the Legislature of, or to a local body in, a Province may be removed by the Governor of that Province in his discretion, and any other disqualification under the said paragraph two may be removed, before the establishment of the Federation, by the Governor-General in Council, and, after the establishment of the Federation, by the Governor General in his discretion.

9. In paragraph one of this Part of this Order, "elections" includes all the elections referred to in the Second Schedule to this Order, but save as aforesaid, the references in this Part of this Order to elections, other than express references to elections of any other kind, shall be construed as references to elections as defined in paragraph three of Part I of this Order.

FIRST SCHEDULE

CORRUPT PRACTICES

PART I

1. Bribery, that is to say, any gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing—

- (a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election ; or
- (b) an elector to vote or refrain from voting at an election, or as a reward to—
 - (i) a person for having so stood or not stood, or for having withdrawn his candidature ; or
 - (ii) an elector for having voted or refrained from voting.

For the purposes of this paragraph the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money, and it includes all forms of entertainment and all forms of employment for reward ; but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the return of election expenses prescribed by this Order.

2. Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent, with the free exercise of any electoral right :

Provided that—

- (a) without prejudice to the generality of the provisions of this paragraph, any such person as is referred to therein who—
 - (i) threatens any candidate or elector, or any person in whom a candidate or elector is interested, with any injury of any kind ; or
 - (ii) induces or attempts to induce a candidate or elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of that candidate or elector within the meaning of this paragraph ;

- (b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this paragraph.

3. The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person for a voting paper in his own name when, by reason of the fact that he has

4. The removal of a voting paper from the polling station during polling hours by any person with the connivance of a candidate or his agent.

5. The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

6. The incurring or authorising by a candidate or his agent of expenditure, or the employment of any person by a candidate or his agent, in contravention of this Order or of any Act of the Provincial Legislature or Rules.

PART II

1. Any act specified in Part I of this Schedule, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

2. The application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

3. The receipt of, or agreement to receive, any gratification whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate ; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw his candidature.

For the purposes of this paragraph the term " gratification " has the same meaning as it has for the purposes of paragraph one of Part I of this Schedule.

4. The making of any return of election expenses which is false in any material particular, or the making of a declaration verifying any such return.

PART III

1. The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate.

2. The hiring, using or letting, as a committee room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public.

3. The issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name

SECOND SCHEDULE

DISQUALIFICATIONS FOR MEMBERSHIP OF PROVINCIAL LEGISLATURES

Elections	Offence or Corrupt Practice	Period of Disqualification
Elections to which Chapter IXA of the Indian Penal Code applies.	Offences under Chapter IXA of the Indian Penal Code punishable with imprisonment for a term exceeding six months.	Six years from the date of conviction.
Elections as defined in paragraph three of Part I of this Order.	Corrupt practices specified in Parts I and II of the First Schedule to this Order.	Six years from the date of the report of the tribunal holding the inquiry
Elections as defined in paragraph three of Part I of this Order, other than elections by the members of a Provincial Legislative Assembly to fill seats in the Provincial Legislative Council.	Corrupt practices specified in Part III of the First Schedule to this Order.	Four years from the date of the report of the tribunal holding the inquiry.
Elections to Federal Legislature.	Corrupt practices as defined in any Order under the Act relating to such elections.	The period for which the corrupt practice entails disqualification for membership of Federal Legislature.
Elections under the Government of India Act.	Any corrupt practice within the meaning of the Electoral Rules under the Government of India Act relating to the election in question.	Such period, commencing on the date of the report of the Commissioners under the Electoral Rules relating to the election in question, as is the maximum period of disqualification specified in those Rules for inclusion in electoral rolls thereunder.

APPENDIX VI(B)

THE GOVERNMENT OF INDIA (PROVINCIAL LEGISLATURES) (MISCELLANEOUS PROVISIONS) ORDER, 1936

AT THE COURT AT BUCKINGHAM PALACE

The 18th day of December, 1936

Present :

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

Whereas by section two hundred and ninety-one of, and the Fifth and Sixth Schedules to, the Government of India Act, 1935 (hereafter in this Order referred to as "the Act"), His Majesty in Council is empowered to make provision with respect to certain matters connected with Provincial Legislative Assemblies: And whereas by sub-section (2) of section three hundred and nine of the Act His Majesty in Council is empowered to revoke or vary any Order previously made by Him in Council under the said provisions:

And whereas by section three hundred and ten of the Act His Majesty in Council is empowered to make temporary provisions for the purpose of removing any difficulties arising in relation to the transition from the provisions of the Government of India Act to the provisions of the Act:

And whereas a draft of this Order has been laid before Parliament in accordance with the provisions of sub-section (1) of section three hundred and nine of the Act, and an Address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order:

NOW, THEREFORE, His Majesty, in the exercise of the powers conferred on Him as aforesaid and of all other powers enabling Him in that behalf, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows—

1. This Order may be cited as "The Government of India (Provincial Legislatures) (Miscellaneous Provisions) Order, 1936".

2. The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. For the purposes of the first elections of persons to serve as members of Provincial Legislatures, no person shall be subject to any disqualification as being the holder of an office of profit under the Crown in India by reason only of any appointment held by him under paragraph ten of the Government of India (Constitution of Orissa) Order, 1936, or paragraph ten of the Government of India (Constitution of Sind) Order, 1936.

4.—(1) For sub-paragraph (2) of paragraph eight of Part III of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, there shall be substituted the following sub-paragraph—

"(2) The report shall further include a recommendation by the Commissioners as to the total amount of costs which are payable and the persons by and to whom costs shall be paid.

Any such recommendation may include a recommendation for the payment to the Advocate-General of the Province or a person acting under his instructions, attending the trial in pursuance of an order of the Commissioners, of costs in respect of that attendance, but shall not include a recommendation for the payment of costs in respect of any other Government expenditure in connection with the inquiry."

(2) This paragraph shall have effect as from the commencement of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, but nothing in this paragraph shall render invalid anything done before the making of this Order by virtue of paragraph eight of Part III of the said Order as originally enacted.

APPENDIX VII

THE ASSAM LEGISLATIVE ASSEMBLY
ELECTORAL RULES, 1936.**Notification No. 1252-Fr., dated the 29th August 1936.—**

In exercise of the powers conferred by paragraph twenty of the Fifth Schedule to the Government of India Act, 1935, read with paragraph twenty six of Part I of the Government of India (Provincial Legislative Assemblies) Order, 1936, sub-paragraph (5) of paragraph three of Part I and paragraph six of Part III of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, and of all other powers enabling him in that behalf, the Governor of Assam in Council is hereby pleased to make the following rules for the conduct of elections to the Assam Legislative Assembly.

INTRODUCTORY

1. These rules may be called the Assam Legislative Assembly Short title. Electoral (Governor's) Rules, 1936.

2. They shall come into force at once.

Commence-
ment.

3. "the Act" in these rules means the Government of India Act, 1935, and "Gazette" means the *Assam Gazette*.

Definition of
"the Act"
and "Gazet-
te".

4. The Assam Legislative Assembly Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936, shall be deemed to be and to have always been a part of these rules and shall be included and numbered in these rules as Part I thereof.

Assam Legis-
lative Assem-
bly Electoral
(Prepara-
tion, Revi-
sion and
Publication
of Electoral
Rolls) Rules,
1936 to be
Part I of
these rules.

5. If any question arises as to the interpretation of these rules otherwise than in connection with an inquiry into an election petition it shall be referred for the decision of the Governor and the decision of the Governor exercising his individual judgment shall be final.

Interpreta-
tion in case
of doubt.

6. If any difficulty arises as to the holding of any election under these rules, the Governor exercising his individual judgment may by order do anything not inconsistent with these rules or any provision of the Act or of any Order in Council made thereunder or an Act of the Provincial Legislature which appears to him to be necessary for the proper holding of the election.

Provision for
removal of
difficulties.

*PART I

PREPARATION, REVISION AND PUBLICATION OF
ELECTORAL ROLLS

- Short title. 1. These rules may be called the Assam Legislative Assembly Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936.
- Commencement. 2. They shall come into force at once.
- Interpretation in case of doubt. 3. If any difficulty arises in the interpretation of these rules it shall be referred for the decision of the Governor and the decision of the Governor exercising his individual judgment shall be final.
- Notification directing preparation of rolls. 4. The preparation of an electoral roll for a constituency shall be undertaken whenever the Governor exercising his individual judgment by a notification in the *Assam Gazette* so directs.
- Registering authorities. 5. The electoral rolls for the constituencies or such portions of constituencies as fall within the areas specified in the first column of Appendix A shall be prepared by the Registering authority specified in the second column thereof.
- Language of electoral rolls. 6. The electoral roll for the European constituency, the European and Indian Planting, and the European and Indian Commerce and Industry constituencies shall be prepared in English. In the case of other constituencies the roll shall be prepared in English or in the vernacular of the district or in both as may be convenient.
- Forms of electoral rolls. 7. The electoral roll for the various constituencies shall be prepared in accordance with the forms specified in Appendix B.
- Special provision regarding names of women. 8. Where for social or religious reasons there is an objection to the entry of the actual name of a woman in any electoral roll such woman may be entered in the roll as "the wife of A. B. (husband's name)" or, if she is unmarried, as "the daughter of A. B. (father's name)."
- Provision for distinguishing members of scheduled castes. 9. In every General Constituency, the names of members of the Scheduled Castes should be distinguished in the roll by an asterisk.
- Non-British subjects. 10. A person who would be so qualified if he were a British subject shall, even though he is not a British subject, be qualified to be included in the electoral roll for any constituency in the Assam Legislative Assembly if he is the Ruler or subject of the Manipur State or of any Khasi State or belongs to the community known as "Marwari" or is the subject of any State in India who is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular military forces or the Assam Rifles or a retired, pensioned or discharged officer or member of the Indian Police Forces.
- Schedule VI.—Part I, paragraph 3 of Government of India Act. Part I paragraph 5 of the Provincial Legislative Assemblies Order in Council.*

*NOTE.—The rules in Part I which were first published separately under Notification No. 520Fr., dated the 23rd May, 1936, are now included and numbered in the Assam Legislative Assembly Electoral (Governor's) Rules

11. (a) Subject to the proviso to paragraph 7 of Part I of the Sixth Schedule to the Government of India Act, 1935, no person shall be included in the electoral roll for more than one territorial constituency and if any person finds that he is qualified to be included or has been included in the electoral roll of more than one territorial constituency he may elect the constituency in which he desires to vote by application in writing to the Registering or Revising authority concerned and if his name appears in the roll of any other territorial constituency other than that in which he elects to vote it shall be struck off.

Provision to prevent double enrolment in territorial constituencies.
Schedule VI—Part I, paragraph 7, Government of India Act.

(b) If the name of any person is found, otherwise than as a result of an application made under sub-rule (a) of this rule, to have been included in the electoral roll of more than one territorial constituency, he shall be informed of the fact and, unless within 7 days of the receipt of the notice to this effect he elects the territorial constituency in which he wishes to vote, his name shall be struck off the rolls of all the territorial constituencies in which it appears.

12. If a man has more than one wife who would, except for the provisions of sub-paragraph (b) of paragraph 10 of Part I of the Sixth Schedule to the Government of India Act, 1935, be entitled to be included in the electoral roll in respect of her husband's qualifications, the wife to be selected under the provisions of the said sub-paragraph (b) shall be the wife to whom he was first married.

Provision where a man has more than one wife.
Schedule VI—Part I, paragraph 10(b), Government of India Act.

13. A person who is a partner in a firm assessed to income-tax in any financial year may apply to the Income-tax Officer who made the assessment on the firm or to his successor in office for a certificate to the effect that his share in the firm's income on which income-tax was assessed is not less than the minimum on which the tax is leviable and the Income-tax Officer shall, if he is satisfied that the applicant's claim is correct, issue to him a certificate in the following form:—

Provision for certification of income-tax of partner's share in firm's income.
Schedule VI—Part I, paragraph 13(3), Government of India Act.

"This is to certify that.....

is a partner in the firm of.....

The firm was assessed to income-tax in the year.....

and his share of the firm's income on which income-tax was assessed was not less than the minimum on which the tax was leviable.

14. When any question arises whether an individual, firm, concern or corporation was assessed to income-tax in any year on income derived from commerce or industry of not less than Rs. 10,000, a statement by the Income-tax Officer or his successor

Statement of Income-tax Officer to be conclusive evidence of assessment to income-tax on income of not less than Rs. 10,000 derived from commerce or industry.
Part IX, paragraphs 13(1) and 14(1) of Provincial Legislative Assembly Order.

in office that such individual, firm, concern or corporation was or was not assessed on income derived from commerce or industry of not less than Rs. 10,000 shall be conclusive evidence of the

fact.

Application
by a woman
and method
of proving
literacy.
*Schedule VI—
Part IX, para-
graphs 6 and
8, Government
of India Act.*

15. (1) An application by a woman to be included in the electoral roll by virtue of a qualification in respect of which application is necessary shall be made either in person or by letter to the Registering authority before such date as may be fixed in that behalf by the Deputy Commissioner of the district concerned. In the case of a married woman such application can be made by the husband of the woman on her behalf.

(2) An application of a woman to be included in the electoral roll on the ground of being literate shall be accompanied by a certificate signed by a Government Officer or by a *Mauzadar* or *Sarpanch* or by some respectable gentleman of the locality to the following effect:—

“Certified that.....of village.....
Thana.....^{daughter}_{wife} ofis over 21
years of age and is able to read and write in the.....
language”:

Provided that such a certificate shall not be required if the Registering authority is satisfied that the woman's application has been written by herself and that the woman is literate.

The production of a certificate of literacy in the above form shall ordinarily be accepted as sufficient proof of the woman's literacy but it shall be open to the Registering authority to make such further enquiry into the matter and to ask for such further proof of literacy as he deems necessary.

Examinations
equivalent to
Middle
School Leaving
Certificate exami-
nation and
method of
proving the
passing of
such exami-
nations.

*Schedule VI—
Part IX, para-
graph 4, Go-
vernment of In-
dia Act.
Part IX, Para-
graph 9(2)(b),
Provincial
Legislative
Assemblies
Order.*

16. (1) The following examinations are prescribed as being equivalent to the Middle School Leaving Certificate examination:—

- (i) First Tol pass or any higher examination of the Calcutta or Assam Sanskrit Board.
- (ii) The Old Junior and Old First Madrassa examinations or any higher examination of the Assam or Calcutta Madrassa Board.

NOTE.—The Middle School Leaving Certificate examination now covers the Middle English Madrassa and Middle Madrassa examinations which are equivalent to the Old Junior and Old First Madrassa examinations.

(2) The production of the Middle School Leaving Certificate or any other certificate showing that a person has passed any of the equivalent examinations shall be deemed to be sufficient proof that the person whose name is entered in the certificate has passed the Middle School Leaving Certificate examination or its equivalent:

Provided that a certificate of having passed any Matriculation or higher examination conducted by any University incorporated by law in British India may be produced as evidence and shall be accepted as proof of having passed the Middle School Leaving Certificate or its equivalent:

Provided also that for the purpose of this rule a certificate shall be deemed to include a copy of a certificate, certified as a true copy by any gazetted Government Officer.

17. A Tea Estate, Company or Firm shall be treated as being under European control for the purposes of sub-paragraph I(a) of paragraph 12 and sub-paragraphs 1(b) and 2(a) of paragraph 13 of Part IX of the Government of India (Provincial Legislative Assemblies) Order, 1936 if the Board of Directors or other controlling authority of such Estate, Company or Firm contains a majority of Europeans.

18. (1) An application from a proprietor or co-proprietor of a Tea Estate for inclusion in the electoral roll for the appropriate Planting constituency under the provisions of paragraph 12(2) of Part IX of the Government of India (Provincial Legislative Assemblies) Order, 1936, shall be in writing signed by the applicant and either—

- (i) addressed to the Registering authority of the constituency concerned so as to reach that authority before the date of publication of the roll, or
- (ii) addressed to the Revising authority of the constituency concerned under the provisions of rule 23(a).

(2) An application from a co-proprietor under this rule shall be accompanied by a declaration signed by the co-proprietors owning more than half the proprietary interests in the estate stating that the signatories own more than half the proprietary interests in the estate and that they have nominated the applicant to be included in the appropriate electoral roll in lieu of the superintendent or manager of the estate.

19. A person who has not worked as a permanent employee in one qualifying tea garden on sufficient days to qualify him for inclusion in the electoral roll of a labour constituency but who has worked in more than one qualifying tea garden on not less than one hundred and eighty days during the year ending on the prescribed date shall not be included in the electoral roll for a labour constituency unless application is made by him, or on his behalf by a person authorised by him, to the Registering authority that he should be so included and unless he or such person proves to the satisfaction of the Registering authority by the production of certificates from the managers or other responsible officers of the tea gardens concerned that he possesses the necessary qualifications.

20. Any person in charge of a municipal, notified area, local board or cantonment record shall, on requisition from the Deputy Commissioner of the district concerned, furnish within such time as may be specified in such requisition such extracts from the record in his charge as the Deputy Commissioner may require for the purpose of the preparation or revision of an electoral roll ; and shall allow the Deputy Commissioner or any person acting under his authority such access to any such record as the Deputy Commissioner or the person acting under his authority may require.

21. On or before such date as may be notified by the Governor exercising his individual judgment in the Assam Gazette the electoral roll shall be published by the Registering authority who prepared it in accordance with the following rules :—

(a) In the case of the General, Muhammadan, and "Backward tribal" constituencies and the Indian Christian constituency so much of the rolls as relates to each district, subdivision, Sub-

Definition of "European control." Part IX, paragraph 13, Provincial Legislative Assemblies Order.

Application for inclusion in roll by proprietor or co-proprietor of tea estate.

Part IX, paragraph 12(2)—Provincial Legislative Assemblies Order.

Application necessary by persons in labour constituencies in certain cases.

Part IX, paragraph 21 of Provincial Legislative Assemblies Order.

Requisition of records.

Publication of electoral roll.

Deputy Collector's Circle, Police Station, Municipality and Small Town shall be published at the office of the Deputy Commissioner, the office of the Subdivisional Officer, the Circle Sub-Deputy Collector's office, the Police Station and the office of the Municipality and Small Town respectively and an abstract of the portion of the roll relating to each *Mauza* or *chaukidari* circle shall, so far as is practicable, be published in some conspicuous place in the *Mauza* or *chaukidari* circle. A complete copy of the roll shall also be published in all cases at the office of the Returning Officer.

(b) In the case of the European constituency the portion of the roll relating to each district and subdivision shall be published at the office of the Deputy Commissioner and the office of the Subdivisional Officer respectively and, so far as is practicable, at the various European Clubs in the district and subdivision. A complete copy of the roll shall also be published at the office of the Returning Officer.

(c) In the case of the European and Indian Planting and Commerce and Industry constituencies the portion of the roll relating to each district and subdivision shall be published at the office of the Deputy Commissioner and the office of the Subdivisional Officer respectively and a complete copy at the office of the Returning Officer concerned. The rolls for the Commerce and Industry constituencies shall also be published in the *Assam Gazette*. Registering authorities should forward a copy of the Planting rolls prepared by them to the Assam Branch or the Surma Valley Branch of the Indian Tea Association as the case may be and also to any other recognized associations of tea planters.

(d) The roll for the Shillong Women's constituency shall be published at the office of the Deputy Commissioner, Shillong, the office of the Shillong Municipal Board and the office of the Shillong Cantonment authority.

(e) The roll for the "Backward Area" constituencies shall be published as follows:—

- (1) The roll of the Shillong constituency—
at the office of the Deputy Commissioner, Shillong, and an abstract of the portion of the roll relating to each *Sardarship* shall be published in some conspicuous place in each *Sardarship*.
- (2) The roll of the Jowai constituency—
at the offices of the Subdivisional Officer, Jowai and the Deputy Commissioner, Khasi and Jaintia Hills, and an abstract of the portion of the roll relating to each *Doloiship* shall be published in some conspicuous place in each *Doloiship*.
- (3) The roll of the Garo Hills constituencies—
at the office of the Deputy Commissioner, Garo Hills.
- (4) The roll of the Mikir Hills constituency—
at the office of the Deputy Commissioner, Nowgong, the Deputy Commissioner, Sibsagar and the Subdivisional Officer, Golaghat, according as the roll deals with the Nowgong or the Sibsagar Mikir Hills.

(f) The rolls for the Tea Garden Labour constituencies shall be published at the office of the Deputy Commissioner and Subdivisional Officer of the district and subdivision in which the constituency is situated and so much of the roll as relates to each tea garden in the constituency at some conspicuous place in the tea garden.

(g) Nothing in sub-paragraphs (a) to (f) of this rule shall be deemed to prevent the Registering authority of any constituency from publishing the electoral roll of that constituency in such other place or places as he considers desirable for the purpose of giving wider publicity to such publication.

22. The publication of the electoral roll shall not be invalidated by reason that the roll or any part thereof was not published at every place specified in the preceding rule or that the roll or any part thereof was not published at every place on or before the notified date.

Savings.

23. (a) Any person whose name has not been entered in an electoral roll may within twenty-one days from the date of publication of the roll submit to the Revising authority a written claim to be so entered. Every person shall submit a separate written claim.

Claims and objections.

(b) Any person whose name is entered in the electoral roll of a particular constituency may within twenty-one days from the date of preliminary publication of the roll submit to the Revising authority a written objection to any entry on the electoral roll of such constituency.

24. All claims and objections shall be published at the headquarters of the district, the subdivision, the police station and the village in which the person claiming entry, or the person against whose entry an objection is lodged, is resident and a notice with a copy of the objection shall also be served on each person against whom an objection is lodged. The notices so published and served shall state the date on which the claims and objections will be heard, which shall not be less than 10 days after the date of publication and service of notice, and the place where the claims and objections will be heard.

Publication of claims and objections.

25. Every notice issued by the Revising authority shall, if possible, be served personally. Where, for any reason, personal service is not practicable the notice shall be served by registered post or by affixing a copy thereof at the residence within the constituency of the person concerned or in the case of a firm, corporation or a Hindu joint family concern at its office within the constituency. A certificate of service, either personal or otherwise, shall be deemed to be conclusive proof of the fact of such service.

Service of notice.

25 A. (1) Any woman, who has not been included in the electoral roll in consequence of her failure to make an application in the manner prescribed in rule 15, may, on or before the tenth day from the publication of the electoral roll excluding the day of such publication, apply to the Revising authority to have her name included in the electoral roll for the constituency for which she claims to be entitled to be an elector. Such application shall be in writing and, in the case of an application claiming to be included in the electoral roll on the ground of being literate, shall be accompanied by the certificate prescribed in rule 15. Such

Inclusion of women electors in certain cases.

application shall contain a statement that the applicant has not made any application in the manner prescribed in rule 15.

(2) On receipt of such application, the Revising authority may, notwithstanding anything contained in rules 23, 24 and 25, after such inquiry as he thinks necessary, direct her name to be included in the electoral roll for the said constituency if she is found qualified to be so included.

Revising
authorities.

26. The officer specified in the first column of Appendix C shall be the Revising authority for such constituencies or the portions of constituencies of the Assam Legislative Assembly as fall within the areas noted against his name in the second column of the same Appendix.

Inquiry into
claims and
objections by
the Revising
authority.

27. The Revising authority shall hold a summary enquiry into each claim or objection preferred and, after hearing the evidence, if any, adduced on behalf of the parties and after such further enquiry as may seem necessary, shall pass orders on the claim or objection and such order shall be final.

Republicat-
ion of electo-
ral rolls.

28. When the electoral roll has been amended in accordance with the orders of the Revising authority it shall be republished in the manner provided in rule 21 and shall come into force from the date of such republication and shall remain in force for a period of 5 years from the date of such republication, after which a fresh roll shall be prepared :

Provided that the Governor exercising his individual judgment may, by notification in the *Assam Gazette*, direct the preparation in accordance with these rules of a fresh roll at any time before the expiration of the said period of 5 years.

Sale of copies
of the roll to
the public.

29. Copies of rolls shall be available for sale to the public at such prices as may be fixed from time to time.

Applicability
of electoral
roll after it
has ceased to
have force in
certain cases.

Minor cor-
rections in
and addi-
tions to rolls
in force.

30. If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purpose of that election continue to operate as the electoral roll of that constituency.

31. (a) Any person may apply to the Revising authority for the correction of an existing entry in the electoral roll for the time being in force and if the Revising authority is satisfied, after making such enquiry as he considers necessary, that the entry relating to the applicant is erroneous or defective in any particular he may correct the entry or cause it to be corrected accordingly.

(b) If the Revising authority is satisfied, after making such enquiry as may be necessary, that an electoral roll for the time being in force is defective owing to a printing error or contains any printing mistake or printing omission he may order such roll to be corrected and the roll shall be corrected in accordance with his order.

(c) Any person who intends to stand as a candidate for election and whose name does not appear on the roll of a constituency for the time being in force may, on payment of a fee of Rs.10 (which shall in no circumstances be refunded), apply to the Revising authority to have his name included in such roll. Every such application shall be accompanied by a declaration signed by the applicant stating that he intends to stand as a candidate for election to the Assam Legislative Assembly. On

receipt of such application the Revising authority shall, if he is satisfied that there are good grounds for believing the applicant to be qualified for inclusion in the roll, follow the procedure prescribed by rules 24 and 27.

(d) If the Revising authority is satisfied that a man nominated by a Khasi or Synteng (Pnar) woman in her stead under the provisions of paragraph 9(4) of Part IX of the Government of India (Provincial Legislative Assemblies) Order, 1936, is dead, he shall strike off the name and particulars of such man from the electoral roll and include therein as a qualified elector the name and particulars of the woman who nominated such man.

32. Every correction in, or addition to, an electoral roll shall be attested by the signature of a gazetted Officer of Government. Corrections in rolls to be attested.

33. Notwithstanding anything hereinbefore contained any person may apply to the Revising authority of the constituency concerned for the amendment of any electoral roll for the time being in force. The Revising authority shall forward such application to the Governor and the Governor exercising his individual judgment may, at any time, after any such application has been made in respect of any electoral roll, by notification in the *Assam Gazette*, direct the preparation of a list of amendments thereto and the provisions of these rules shall apply in the case of every such list in like manner as they apply in the case of electoral rolls. Lists of amendments to electoral rolls.

34. If any difficulty arises as to the preparation, revision or publication of any electoral roll or of any list of amendments to any such roll the Governor exercising his individual judgment may, by order, do anything which appears to him to be necessary for the due preparation, revision or publication of such roll or list of amendments. Provision for removal of difficulties.

PART II

RETURNING OFFICERS

1. The Returning Officers for the constituencies mentioned in the first column of Appendix D shall be the persons respectively specified in the corresponding entry in the second column thereof.

2. The person specified in the third column of the said Appendix may, subject to the control of the Returning Officer, perform all or any of the functions of the Returning Officer in the constituencies respectively specified in the corresponding entry in the first column thereof:

Provided that no such person shall perform any of the functions of a Returning Officer which relate to the acceptance or scrutiny of a nomination paper or to the counting of votes, unless the Returning Officer is unavoidably prevented from performing the same, in which case the said function may be performed in any constituency by the person specified in the corresponding entry in the third column of the Appendix.

3. The Returning Officers for the primary elections in constituencies in which seats have been reserved for the Scheduled Castes shall be the officers appointed to be Returning Officers for the General constituencies in which the seats have been so reserved.

4. Any reference to a Returning Officer in these rules shall, unless a contrary intention appears, be deemed to include any person when performing any duty or function which he is authorised to perform under rule 2 of this Part.

5. Subject to the provisions of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, relating to the decision of doubts and disputes as to the validity of an election and those of Part IX of these rules relating to the decision of doubts and disputes as to the validity of a primary election in the case of members of the Scheduled Castes, in so far as they are applicable, all decisions given by Returning Officers under the powers conferred on them by these rules shall be final.

PART III

SPECIAL RULES FOR ELECTION TO SEATS IN GENERAL CONSTITUENCIES IN WHICH A SEAT IS RESERVED FOR MEMBERS OF THE SCHEDULED CASTES

Nomination
of candidates
for the primary election.

1.(1) Any person, who belongs to one of the Scheduled Castes* of the Assam Valley or Surma Valley and is a resident in the respective valley, may be nominated as a candidate for a primary election to be held for the purpose of selecting a panel of candidates for a seat reserved for the members of those castes in the respective valley if he is qualified to be chosen to fill that seat under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature.

(2) The Governor acting in his discretion shall appoint for each constituency in which a seat is reserved for members of the Scheduled Castes—

(a) a date, not later than the fourteenth day after the date of the notification calling upon members of those castes who are entitled to vote in that constituency to elect a panel of not more than four candidates for each seat so reserved, for the nomination of such candidates and for the scrutiny of nominations ;

(b) a further date or dates on which a primary election shall, if necessary, be held for the purpose of electing a panel of not more than four candidates for each reserved seat ;

and the dates so fixed shall be notified in the constituency in such manner as the Governor thinks fit.

* The Scheduled Castes are—

(A) In the Assam Valley :

- | | |
|----------------------------|----------------------|
| (1) Namasudra | (5) Lalbegi |
| (2) Kaibartta | (6) Mehtar or Bhangi |
| (3) Bania or Brittil-Bania | (7) Bansphor ; |
| (4) Hira | |

(B) In the Surma Valley :

- | | |
|-----------------------|--------------------------|
| (1) Mali or Bhui-Mali | (9) Patni |
| (2) Dhupi or Dhobi | (10) Namasudra |
| (3) Dugla or Dholi | (11) Kaibartta or Jaliya |
| (4—5) Jhalo and Malo | (12) Lalbegi |
| (6) Mahara | (13) Mehtar or Bhangi |
| (7) Sutradhar | (14) Bansphor ; |
| (8) Muchi | |

(3) The provisions of sub-rules (3), (4), (5), (6), (7), (8), (9) and (10) of rule 2 of Part IV, sub-rules (1) and (2) of rule 3 of Part IV and rule 4 of Part IV shall apply to the nominations of such candidates in the same way as they apply to nominations of candidates in territorial constituencies :

Provided that—

(i) the proposer and seconder referred to in the said rules shall both be members of the Scheduled Castes ;

(ii) the deposit required under sub-rule (1) of rule 3 of Part IV shall be rupees fifty only.

2. (1) If the person by whom, or on whose behalf, the deposit of Rs.50 has been made withdraws his candidature in the manner and within the time specified in sub-rule (3) of rule 5 of this Part, or if the nomination of any such person is refused, the deposit shall be returned to the person by whom it was made ; and if any candidate dies before the commencement of the poll at the final election any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made. Return or forfeiture of deposit before final election.

(2) If the person by whom, or on whose behalf, such deposit has been made is not elected at the primary election and the number of votes polled by him at such primary election is less than one-fourth of the total number of votes polled by the person who has secured the lowest number of votes amongst the successful candidates at such primary election, the deposit shall be forfeited to the Government

(3) For the purpose of sub-rule (2) the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot papers, counted.

(4) The deposit made in respect of a person who is not elected at a primary election shall, if it is not forfeited under sub-rule (2) , be returned to him, or to the person who has made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the primary election.

3. The deposit made in respect of a person who is elected at a primary election shall be dealt with in accordance with the provisions of sub-rules (3) to (5) of rule 3 of Part IV of these rules. Return of deposit after final election.

4. (1) If at a primary election held for the election of a panel of candidates for a seat reserved in a constituency for members of the Scheduled Castes, the number of candidates who are duly nominated and who have not withdrawn their candidature in the manner and within the time allowed by the rules exceeds four, the Returning Officer shall forthwith publish in the Gazette and in such manner and in such places in the constituency as he may consider necessary the names of the candidates as given in the nomination papers in alphabetical order together with the symbols assigned to each candidate and a poll shall be taken for the purpose of electing four persons as candidates for the seat reserved in the constituency for members of the Scheduled Castes. Procedure at the primary election.

(2) If the number of such candidates is 2, 3 or 4, the Returning Officer shall declare all such candidates to be duly elected as the panel of candidates for the seat.

(3) if the number of such candidates is one only the Returning Officer shall declare such candidate to be duly elected as a candidate for the seat and unless such candidate withdraws under sub-rule (3) of rule 5 of this Part, shall after 1 p. m. on the following day declare him to be elected to fill the seat reserved in the constituency for members of the Scheduled Castes.

Voting and counting of votes at the primary election and the declaration of result of such election and withdrawal of candidature at such election. 5.(1) At the primary election for the selection of candidates for a seat reserved in a constituency for members of the Scheduled Castes, where a poll is taken, votes shall be given by ballot and no votes shall be received by proxy.

(2) The provisions of sub-rules (5) and (6) of rule 6 of Part IV and the whole of Parts V and VI shall apply *mutatis mutandis* to the voting and the counting of votes and the declaration of candidates elected at such primary election.

(3) Any person declared elected at a primary election under sub-rule (2) or (3) of rule 4 of this Part or sub-rule (2) of this rule may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer or other person authorised on or before one o' clock in the afternoon of the day succeeding that on which the candidate has been declared so elected or, if that day is a public holiday, on the next open day. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal.

(4) The Returning Officer or other person authorised shall on receiving a notice of withdrawal under sub-rule (3), as soon as may be, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

(5) If after the expiry of the period within which candidature may be withdrawn under sub-rule (3) the number of candidates elected at the primary election is greater than one, the Returning Officer shall forthwith examine the symbols allotted to such candidates at the time of the scrutiny of their nominations for such election under sub-rule (4) of rule 4 of Part IV and if such symbols are found to conflict with the symbols allotted to other candidates in the said constituency, he shall allocate the symbols in conformity as far as possible with the wishes of the candidates and, if necessary, by lot and his decision in this respect shall be final. Each candidate elected at the primary election or his election agent shall at the same time be informed of the symbol assigned to him for the final election and shall be given a specimen thereof. The Returning Officer shall then prepare a list showing the candidates who have been duly elected at the primary election indicating therein the symbol assigned to each such candidate for the final election and cause the list so prepared to be affixed in some conspicuous place in his office.

Procedure in case of death of candidate. 6. If a member of the Scheduled Castes who has been duly elected at a primary election as a candidate for a seat reserved for a member of those castes dies after the primary election and before the commencement of the poll for the final election, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, report the fact to the Governor and the

Governor exercising his individual judgment may either countmand the poll and direct that a new primary election be held in accordance with these rules for the election of another candidate in place of the one who is dead or may direct that the poll be proceeded with :

Provided that this rule shall not apply to any case where the number of candidates for the reserved seat after the death of such candidate is at least one.

7. The election agent appointed under sub-rule (5) of rule 2 of Part IV for a primary election by a person who is afterwards elected at such primary election as a candidate for a seat reserved in a constituency for a member of the Scheduled Castes shall be deemed to be the election agent of such candidate for the final election held in that constituency for filling such seat.

Election agents at primary election to be deemed to be election agents at final election.

8. If in a constituency in which a seat is reserved for members of the Scheduled Castes, the number of candidates qualified to be chosen to fill the seat is greater than one, the Returning Officer shall publish in the Gazette and in such manner as the Governor may direct and in such places in the constituency as the Returning Officer may consider necessary, the names of the candidates both for the reserved and the non-reserved seat or seats in the constituency as given in the list of candidates prepared under sub-rule (5) of rule 5 of this Part and sub-rule (4)(a)(i) of rule 4 of Part IV and in the nomination papers, indicating by a special mark the candidates for the reserved seat together with the symbol assigned to each candidate and a poll shall be taken.

Special procedure at elections in a constituency in which seats are reserved for members of the Scheduled Castes.

PART IV

NOMINATIONS, DEPOSITS AND GENERAL PROCEDURE AFTER NOMINATIONS.

1. Subject to the special rules in Part III regarding election to seats reserved for members of the Scheduled Castes, the rules in this Part shall apply to all constituencies in the Assam Legislative Assembly.

2. (1) No person shall be nominated as a candidate for election to fill a seat in any constituency if he is not qualified to be chosen to fill that seat under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature.

Nomination of candidates.

(2) The Governor acting in his discretion shall appoint or each constituency :—

(a) a date, not later than the fourteenth day after the date of the notification calling upon the constituency to elect a member or members, for the nomination of candidates and for the scrutiny of nominations ;

(b) a further date or dates on which a poll shall, if necessary, be taken ;

and the dates so fixed shall be notified in the constituency in such manner as the Governor thinks fit.

(3) On or before the date so appointed for the nomination of candidates, each candidate shall, either in person or by his proposer or seconder, between the hours of eleven o'clock in the forenoon and one o'clock in the afternoon deliver to the Returning Officer, or to such other person as may be authorised in this behalf by the Governor, a nomination paper completed in the form specified in Appendix E and subscribed by the candidate himself as assenting to the nomination and by two persons referred to in sub-rule (4) as proposer and seconder.

In a tea garden labour constituency the nomination paper shall contain a declaration in writing subscribed by the candidate specifying the qualifying tribe or caste mentioned in paragraph 22 of Part IX of the Government of India (Provincial Legislative Assemblies) Order, 1936, of which he is a member. Where the candidate in a tea garden labour constituency is entitled to vote in the choice of a member to fill some seat in the Legislative Assembly of Bengal, Bihar or Orissa, the nomination paper shall also be accompanied by a certified copy of the entry made in the finally published electoral roll of the constituency of such Assembly in which he has been named as a voter.

(4) Any person whose name is included in the electoral roll of the constituency and who is not subject to any disabilities for being so included under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature may subscribe as proposer or seconder as many nomination papers as there are vacancies to be filled but no more :

Provided that where a nominee of a firm, corporation or Hindu joint family is a candidate for election, no other nominee of the said firm, corporation or Hindu joint family shall be entitled to subscribe the nomination paper of such candidate either as proposer or seconder :

Provided also that where a nominee of a firm, corporation or Hindu joint family has subscribed a nomination paper as proposer or seconder, no other nominee of the said firm, corporation or Hindu joint family shall subscribe the same nomination paper as seconder or proposer.

(5) Every nomination paper delivered under sub-rule (3) shall contain a declaration in writing subscribed by the candidate that the candidate has appointed or does thereby appoint as his election agent for the election either himself or some one other person who is not disqualified under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature for the appointment and who shall be named in the declaration ; and no candidate shall be deemed to be duly nominated unless such declaration is made on the nomination paper :

Provided that notwithstanding that more than one nomination paper is presented by or on behalf of a candidate, only one such declaration by the candidate shall be necessary.

(6) In constituencies other than the European constituency, the European and Indian Planting constituencies and the European and Indian Commerce and Industry constituencies, the nomination paper shall also contain a declaration in writing subscribed

by the candidate that he has selected a particular symbol from the list specified in Appendix F to these rules and no candidate in such constituencies shall be deemed to be duly nominated unless such declaration is made on the nomination paper.

(7) Any nomination paper which is not received before one o'clock in the afternoon on the date fixed by the Governor for the nomination of candidates shall be rejected.

(8) The Returning Officer or other person authorised shall, on receiving a nomination paper under sub-rule (3), sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him, and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of all the nominations received containing descriptions, similar to those contained in the nomination papers, both of the candidates and of the persons who have subscribed the nomination paper as proposers and seconders.

(9) Any candidate may withdraw his candidature by *notice^e in writing subscribed by him and delivered by him either in person or by his proposer or seconder to the Returning Officer at any time before the Returning Officer has completed the preparation of the list of valid nominations under rule 4(4) (a) (i) or (ii) of this Part. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

(10) The Returning Officer or other person authorised shall, on receiving a notice of withdrawal under sub-rule (9), as soon as may be, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

3. (1) At the time of delivery of a nomination paper under sub-rule (3) of rule 2 of this Part, each candidate shall either (a) submit with the nomination paper a Government treasury receipt (chalan) showing that a deposit of two hundred and fifty rupees has been made by him in the treasury, or (b) deposit with the Returning Officer the sum of two hundred and fifty rupees in cash or in Government promissory notes of equal value at the market rate of the day; and no candidate shall be deemed to be duly nominated unless such deposit has been made: Deposit on nomination and forfeiture or return of such deposit.

Provided that a candidate for a backward tribal or a backward area constituency shall be required to deposit a sum of one hundred rupees only and if a candidate in a tea garden labour constituency is a genuine manual worker he shall be required to deposit a sum of fifty rupees only.

*Note.—A telegram addressed to the Returning Officer purporting to come from a candidate giving notice of the withdrawal of his candidature may be provisionally accepted as a notice in writing. Unless, however, such telegram is followed up as soon as possible by a notice of withdrawal subscribed by the candidate himself the telegram should be disregarded and the candidate should be deemed not to have withdrawn his candidature.

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made withdraws his candidature in the manner and within the time specified in sub-rule (9) of rule 2 of this Part, or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made ; and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made.

(3) If in a constituency, other than a constituency containing a seat reserved for representatives of the Scheduled Castes, a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made, is not declared elected and the number of votes polled by him does not exceed one-eighth of the total number of votes polled, or if such constituency contains more than two seats, one-eighth of the number of votes polled divided by the number of members to be elected, the deposit shall be forfeited to Government.

In a constituency in which a seat is reserved for representatives of the Scheduled Castes the deposit of a Scheduled Caste candidate who has been elected to the panel at the primary election shall not be forfeited at the final election and the deposit of any other candidate who is not declared elected shall not be forfeited unless he fails to obtain one-eighth of the number of votes polled by all candidates other than the Scheduled Caste candidates who were elected to the panel at the primary election.

(4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot papers, counted.

(5) The deposit made in respect of a candidate who is not elected shall, if it is not forfeited under sub-rule (3), be returned to the candidate or to the person who has made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the election in the Gazette ; and the deposit made in respect of a candidate who is elected shall be so returned as soon as may be after the publication of the result of the election in the Gazette :

Provided that, if a candidate is duly nominated at a general election in more than one constituency, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the Government.

(6) Every application for the return of a deposit made under this rule shall be supported—

- (a) if the candidate had been duly nominated in more than one constituency, by a declaration of the constituencies in which he was nominated and a further declaration to the effect that he has neither claimed nor obtained, previously, a refund of any of the deposits made by him ; and
- (b) if the candidate had been duly nominated only in one constituency by a declaration to the effect that he was not nominated in any other constituency and that he has neither claimed nor obtained a refund of the deposit previously.

4. (1) After one p. m. on the date fixed by the Governor for the nomination of candidates under sub-rule (2) of rule 2 of this Part the candidates, their election agents, one proposer and one seconder of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such place as the Returning Officer may appoint, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in rule 2 of this Part. Scrutiny of nomination.

(2) (a) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds:—

- (i) that the candidate is not qualified to be chosen to fill the seat under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature ;
- (ii) that a proposer or seconder is disqualified from subscribing a nomination paper under sub-rule (4) of rule 2 of this Part ;
- (iii) that there has been a substantial failure to comply with any of the provisions of rule 2 or rule 3 of this Part ;
- (iv) that the candidate or any proposer or seconder is not substantially identical with the person whose number or name on the electoral roll is given in the nomination paper as the number or name of such candidate, proposer or seconder ;
- (v) that the signature of the candidate or any proposer or seconder, is not genuine or has been obtained by fraud.

The Returning Officer shall not, however, refuse any nomination paper on the ground of a slight technical defect such as the wrong spelling of a name, and shall accept any nomination paper in which he is satisfied that the candidate is qualified to be chosen to fill the seat and has been proposed and seconded by persons who are qualified to do so.

(b) For the purposes of this rule:—

- (i) the production of a certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of any voter named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate is disqualified under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature or that the proposer or seconder, as the case may be, is disqualified under sub-rule (4) of rule 2 of this Part ;

(ii) where a person has subscribed, whether as proposer or seconder, a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

(c) Nothing contained in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v) of clause (a) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(3) (a) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(b) The scrutiny shall be completed, if possible, on the day fixed for the nomination of candidates under clause (a) of sub-rule (2) of rule 2 of this Part but if it cannot be completed on that day it may be adjourned to the following day or, if the following day is a holiday, to the next open day.

(4) (a) On completion of the scrutiny of nominations, the Returning Officer shall proceed as follows:—

(i) In the case of constituencies other than the European constituency, the European and Indian Planting and the European and Indian Commerce and Industry constituencies, he shall forthwith examine the symbols selected by the candidates and, if such symbols are found to conflict with each other or with any symbols already assigned, he shall allocate the symbols in conformity as far as possible with the wishes of the candidates and if necessary by lot, and his decision in this respect shall be final. Each candidate or his election agent shall at the same time be informed of the symbol assigned to him and shall be given a specimen thereof. The Returning Officer shall then prepare a list of valid nominations indicating therein the symbols assigned to each candidate.

(ii) In the case of other constituencies, he shall forthwith prepare a list of valid nominations.

(b) In every case the Returning Officer shall cause the list of valid nominations prepared by him under clause (a) to be affixed in some conspicuous place in his office.

5. If a candidate who has been duly nominated under these rules dies after the date fixed for the scrutiny of nominations and before the commencement of a poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Governor, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Death of
candidate
before poll.

Provided that no fresh nomination shall be necessary in the case of a candidate whose nomination had been valid at the time of the countermanding of the poll.

6. (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature in the manner and within the time specified in sub-rule (9) of rule 2 of this Part exceeds that of the seats to be filled, the Returning Officer shall forthwith publish in the Gazette and in such other manner as the Governor may direct and in such places in the constituency as the Returning Officer may consider necessary, the names of the candidates as given in the nomination papers in alphabetical order and the symbols assigned to each candidate, and a poll shall be taken. Procedure after nominations.

(2) If the number of such candidates is equal to the number of seats to be filled the Returning Officer shall declare all such candidates to be duly elected to fill those seats.

(3) If the number of such candidates is less than the number of seats to be filled the Returning Officer shall declare all such candidates, if any, to be elected, to fill as many of those seats as possible, and the Governor exercising his individual judgment shall, by a notification in the Gazette, call upon the constituency to elect a person or persons to fill the remaining seat or seats, as the case may be, within such time as may be specified in the notification :

Provided that where the constituency, having already been called upon under this sub-rule, has failed to elect a person or the requisite number of persons, as the case may be, to fill the seat or seats, the Governor exercising his individual judgment shall not be bound again to call upon the constituency to elect a person or persons until such time, if any, as he thinks fit.

(4) At elections in every constituency where a poll is taken votes shall be given by ballot in the manner provided therefor in these rules and no votes shall be received by proxy.

(5) Votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate and, either his election agent or one representative of each candidate authorised in writing by the candidate, shall have a right to be present at the time of counting.

(6) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candidates elected.

(7) The Returning Officer shall without delay report the result of every election in a constituency of which he is the Returning Officer to the Secretary to the Government of Assam in the Legislative Department and to the Secretary to the Assam Legislative Assembly and to such other officers as the Governor may direct and the name or names of the candidate or candidates elected shall be published in the Gazette under the signature of the Returning Officer.

PART V

VOTING

Hours of
commence-
ment and
close of the
poll.

1. (1) The Governor shall fix the hour at which the poll shall commence and the hour at which it shall close on the date or dates fixed for the poll. The hours of polling shall ordinarily be uniform within each constituency but the Governor may in the case of any constituency specify different hours of polling within different areas. The hours fixed for polling shall be published by notification in the Gazette and in such other manner as the Governor may direct.

(2) The Returning Officer may, for sufficient cause and with the previous consent of the Governor acting in his discretion, postpone the date or extend the period fixed for polling.

Appoint-
ment of pre-
siding officers
and polling
officers for
polling sta-
tions.

2. (1) The Returning Officer shall select for each constituency as many polling stations as he thinks necessary and shall allot a distinctive number to each polling station. He shall publish, in such manner as the Governor may direct, a list showing the polling stations so selected, their distinctive numbers and the polling areas for which they have respectively been selected.

(2) The Returning Officer shall appoint a presiding officer for each polling station and such other persons (hereinafter referred to as polling officers) to assist the presiding officer as he thinks necessary :

Provided that if a polling officer is absent from the polling station the presiding officer may appoint any person who is present at the polling station to be the polling officer during the absence of the former officer and inform the Returning Officer accordingly.

(3) A polling officer may, if so directed by the presiding officer, perform all or any of the duties assigned to a presiding officer under these rules.

(4) If the presiding officer, owing to illness or other unavoidable cause is obliged to absent himself from the polling station, his duties shall be performed by such polling officer as has been previously authorised by the Returning Officer to perform such duties during any such absence..

Duties of
presiding
officers at
polling sta-
tions.

3. (1) The presiding officer shall keep order at the polling station, shall see that the election is fairly conducted, shall regulate the number of voters to be admitted at one time, and shall exclude all other persons except—

(a) the polling officers, the candidates, and one agent of each candidate (hereinafter referred to as the polling agent) appointed in writing by the candidate, and authorised in this behalf by the Returning Officer,

(b) the police officers or other public servants on duty and

(c) such other persons as the presiding officer may from time to time admit for the purpose of identifying electors.

(1a) At least seven days before the date fixed for the poll every candidate shall forward to the Returning Officer of the constituency the name of the polling agent appointed in writing by the candidate :

Provided that, in the case of the revocation of appointment of, or the death of, a polling agent, the Returning Officer may allow the appointment of another agent in his place at any time before the poll is taken.

(2) The presiding officer shall close the polling station at the hour fixed in that behalf by the Governor under rule 1 of this Part, so as to prevent the admission thereto of any voter after that hour, provided that all voters admitted within the polling station before it is so closed shall be entitled to have their votes recorded.

(3) In emergencies such as a disturbance of the public peace or the intervention of floods, the presiding officer may, with the approval of the Returning Officer, close the poll and announce an adjournment of the poll to a subsequent day. The Returning Officer shall immediately report the circumstances to the Governor.

4. If any person misconducts himself at the polling station or fails to obey the lawful orders of the presiding officer, he may by order of the presiding officer be removed from the polling station by any police officer or by any other person authorised in writing by the presiding officer to remove him ; and the person so removed shall not, unless with the permission of the presiding officer, be allowed again to enter the polling station during the day: Removal from the polling station for misconduct.

Provided that before ordering the removal of any such person the presiding officer shall record his reason in writing for so doing.

5. (1) Each polling station shall be furnished with such number of compartments, in which voters can record their votes screened from observation, as the Returning Officer thinks necessary. Arrangements for secrecy of voting and recording of votes of women voters.

(2) As far as practicable, separate compartments and separate entrances and exits shall be provided for women voters and suitable arrangements shall be made for recording the votes of *pardashin* female voters.

(3) In the Women's (Shillong) constituency the presiding officers and the polling officers shall, so far as this can be arranged by the Returning Officer, be women.

(4) For the purpose of identification the husband or other near relative of a woman voter may accompany her to the polling station. Such person shall not, however, be permitted to go inside the polling compartment.

Manner of providing ballot boxes and symbols of candidates at the polling stations, 6. (1) The Returning Officer shall provide at each polling station one ballot box for each of the candidates in each polling compartment thereof and the ballot boxes shall be so placed in the compartment that a voter can insert his ballot paper in any of the boxes without being observed by any other person.

(2) The symbol assigned to each candidate shall be affixed to the ballot boxes of the respective candidates. The ballot box of each candidate shall also be clearly marked with his name in English and such other vernacular language or languages as may be decided by the Returning Officer.

(3) Outside and inside each such polling station there shall be affixed in a conspicuous place by the presiding officer before the commencement of the poll a notice showing the name of each candidate in English and such other vernacular language or languages as may be decided by the Returning Officer together with a copy of the symbol affixed to each candidate's ballot box.

(4) The Returning Officer shall provide at each polling station instruments for stamping the official mark on ballot papers, as many ballot papers as may be necessary and copies of the electoral roll or of such part thereof as contains the names of the voters entitled to vote at such station.

(5) The official mark shall be kept secret, and a period of not less than seven years shall intervene between the use of the same official mark at elections for the same constituency.

Ballot boxes to be locked up and sealed before commencement of poll. 7. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, immediately before the commencement of the poll, shall show the ballot box empty to such persons as may be present in such station so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall keep it so locked and sealed.

Section 14 of Act XXXIX of 1920 to be read and explained to persons present. 8. Before the polling station is open for the recording of votes, the presiding officer shall read to such persons as may be present the provisions of section* 14 of the Indian Election Offences and Inquiries Act, 1920, and shall explain the substance thereof in the vernacular of the district.

*NOTE.—Section 14 of the Indian Election Offences and Inquiries Act, 1920 runs as follows—

14. (1) Every officer, clerk, agent or other person who performs any duties in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either descriptions for a term not exceeding three months or with fine or with both.

9. (1) The voter on entering the polling station shall first approach the polling officer in charge of that portion of electoral roll in which the voter's name appears. Such polling officer shall ascertain the voter's name, address, his father's name, or her father's or husband's name and such other particulars as appear on the roll, and having checked these with the roll, call out the number, name and description of the voter as printed. He shall then place against the number of the voter in the roll a short horizontal line to denote that the voter has received the ballot paper or papers to which he is entitled. No other mark shall be made on the roll.

Procedure
before re-
cording of
votes by bal-
lot box system

(2) If a voter's name, address or any other particular given in the roll is found to be incorrect owing to a misprint or clerical error, the presiding officer may interpret the entry in the roll so as to overlook any such clerical or printing error but shall record his reasons in writing for so doing in each case.

(3) On the voter's name being called out one of the polling officers in charge of the ballot papers shall enter on the counterfoil of as many ballot papers as the voter is entitled to receive the voter's number (as given in the electoral roll) and (if this has not been printed) the distinctive number of the polling station. He shall then detach each ballot paper from the counterfoil and, after stamping it with the official mark, deliver to the voter the number of ballot papers which he is entitled to receive.

(4) At a primary election for the selection of candidates for seats reserved in General constituencies for members of the Scheduled Castes, a voter shall be given only one ballot paper which he may place in the ballot box of the candidate for whom he desires to vote.

(5)† At elections in General constituencies in which seats are reserved for members of the Scheduled Castes the voter shall be given as many ballot papers as there are members to be elected and the polling officer shall explain to the voter that he can place all the ballot papers in the ballot box of one candidate or distribute them as he pleases and place them in different ballot boxes.

10. At every polling station arrangements shall be made for a suitable village or municipal officer such as a *patwari* (*mandal*), *gaonbura*, *sarpanch*, village *chaukidar*, etc., to be present when the voters of such village appear to record their votes. Such officers shall sit in close proximity to the polling officer in charge of the electoral roll and shall assist him in identifying the voters calling his attention to any case of impersonation or misrepresentation when the matter shall at once be referred to the presiding officer.

Persons to be
present at the
polling station
to assist
the polling
officers in
identifying
voters.

†NOTE.—See paragraph 15 of Part I of the Government of India (Provincial Legislative Assemblies) Order, 1936. For example, if, at the final election, three members are to be elected in the Kamrup Sadr (South) General constituency each voter will be given 3 ballot papers. The voter can give all these three votes to one candidate or he can give two to one candidate and one to another or one to each of three candidates. A voter whether he is a "Scheduled Caste" or "caste" voter has entire freedom of disposing of his votes as he likes, e. g., a Scheduled caste voter can, if he likes, give all or some of his votes to a "caste" candidate and a "caste" voter can give all or some of his votes to a "Scheduled caste" candidate.

Manner of recording votes after receipt of ballot papers. 11. (1) The voter on receiving the ballot paper or papers shall show the official mark thereon to the presiding officer, or to a polling officer appointed for this purpose by the presiding officer, and forthwith proceed into the polling compartment where he shall put his ballot paper or papers into the ballot box or boxes of the candidate or candidates for whom he desires to vote. Every voter shall vote without undue delay and shall quit the polling station as soon as he has voted.

(2) The presiding officer may, at any time while a poll is proceeding, enter any polling compartment and may take such steps as may be necessary to ensure that the boxes remain ready for the reception of ballot papers, that no voter delays unduly in any such compartment and that not more than one voter is in any such compartment at a time. The presiding officer shall take adequate steps to ensure that no voter resorts to any malpractices within the polling compartment.

Recording of votes of infirm voters. 12. If a voter owing to infirmity or any other reason is unable to read the symbols on the ballot boxes, the presiding officer shall assist the voter to put the ballot paper into the ballot box according to the direction of the voter.

Voter to be questioned in case of doubts as to his identity. 13. At any time before a ballot paper is delivered to a voter, the presiding officer or a polling officer may of his own accord, if he has reason to doubt the identity of the voter or his right to vote at such station, and shall, if so required by a candidate or polling agent, put to the voter the following questions:—

- (1) Are you the person enrolled as follows (reading the whole entry from the roll) ? and,
- (2) Have you already voted at the present election in this constituency ?
- (3) (And, at a general election in a territorial constituency, other than the Women's constituency), have you already voted at this general election for the Assam Legislative Assembly in any other territorial constituency (other than the Women's constituency) or in any backward area or backward tribal constituency ?
- (4) (And, at a general election in a backward area or backward tribal constituency), have you already voted at this general election for the Assam Legislative Assembly in any territorial constituency, other than the Women's constituency ?
- (5) (And, at a general election in the Women's constituency), have you already voted at this general election in more than one other territorial constituency ?

and the voter shall not be supplied with a ballot paper if he refuses to answer any one of the questions and unless he answers the first question in the affirmative, the second question in the negative, and, at a general election, the third or fourth or fifth question in the negative.

Form of ballot paper and its contents. 14. (1) The ballot paper shall be in the form given in Appendix G annexed to these rules, and shall be printed in such language or languages as the Governor may direct.

(2) The serial number of every ballot paper and the name of the constituency shall be printed on every ballot paper and its counterfoil.

15. If a person representing himself to be a particular voter named on the electoral roll applies for a ballot paper (or in the case of plural member constituencies for ballot papers) after another person has voted as such voter, the applicant shall, after duly answering such questions as the presiding officer may ask, be entitled to receive such ballot paper or papers as he would have been entitled to receive had no other person previously voted in his name. Such ballot paper or papers (hereinafter referred to as tendered ballot papers) shall be in the form given in Appendix H annexed to these rules and of a different colour from the other ballot papers and, instead of being put into the ballot box, shall be given to the presiding officer, who shall endorse each paper with the name of the candidate for whom such person desires to vote, and also with the name of the voter and his number on the electoral roll, and such papers shall be set aside in a separate packet and shall not be counted by the Returning Officer. The name of the constituency, the name of the voter, his serial number on the electoral roll and the distinctive number of the polling station to which the roll relates shall be entered in a list in form given in Appendix I annexed to these rules which shall bear the heading "Tendered votes list". The person tendering such ballot paper or papers shall sign his name and address or affix his thumb impression in the fourth column in that list. Tendered
votes.

16. (1) If any polling agent or any person whom the presiding officer considers suitable declares and undertakes to prove, or if the presiding officer, for any reason, is of opinion that any person by applying for a ballot paper has committed the offence of personation, the presiding officer shall require such person to enter in the list of challenged votes (which shall be in the form given in Appendix J annexed to these rules) his name and address, or if he is unable to write, to affix his thumb impression thereto. If such person refuses to comply with such requisition he shall not be permitted to vote, but if he does so comply, he shall be allowed to vote, after he has been warned of the penalty for personation, provided that he answers the questions mentioned in rule 13 of this Part in the manner laid down therein. Challenged
votes.

(2) The presiding officer shall in every such case, whether or not the person is allowed to vote, make a note of the circumstances in the list of challenged votes.

(3) The Presiding Officer may, before requiring a person to enter his name and address in the list of challenged votes, call upon the person who has declared and undertaken to prove that such person has committed the offence of personation to make a deposit of Rs.20 as a token that the challenge has been made in good faith.

(4) The Presiding Officer shall keep an account of all such deposits and shall make it over to the Returning Officer together with the deposits received by him and a report on each case.

The Returning Officer may, if he is satisfied that any challenge has not been made in good faith or has been made on frivolous grounds, order the forfeiture of the deposit or so much thereof as he considers necessary and the order of the Returning Officer shall be final.

Supply of duplicate ballot paper when a ballot paper is spoilt through inadvertence. 17. A voter who has inadvertently dealt with a ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the presiding officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt paper, and the latter shall, together with its counterfoil, be marked as cancelled by the presiding officer.

Provision for voting by persons on duty at polling stations. 18. A presiding officer, polling officer, other public servant or polling agent who, being entitled to vote in any constituency, is duly appointed or authorised for duty at a polling station at which he is not ordinarily entitled to vote may apply to the Returning Officer of the constituency in which he is entitled to vote for a certificate entitling him to record his vote at the polling station where he is employed. The Returning Officer shall, if satisfied that the application is in order, grant a certificate in the following form :—

“Certified that.....is registered as elector No.at polling station in the.....constituency of the Assam Legislative Assembly and, as he is prevented from voting at the said station by reason of his employment at thepolling station in the constituency, I hereby authorise him to vote at the last named polling station.

Date

Signature of Returning Officer”.

Method of voting in case of persons on duty at polling stations. 19. (1) A person in possession of a certificate in the form mentioned in rule 18 shall deliver it to the presiding officer of the station where he is employed on duty and the presiding officer shall thereupon issue to such person a ballot paper (or papers) duly stamped with the official mark and shall enter in the counterfoil of the ballot paper (or papers) the name of the polling station at which such person would otherwise have been entitled to vote and his number in the electoral roll as given in the Returning Officer's certificate.

If such person is entitled to vote in a constituency other than that in which he is on duty, the presiding officer shall also take such action as may be necessary to inscribe the name of such constituency on the ballot paper (including its counterfoil).

(2) Persons voting under the provisions of sub-rule (1) shall record their votes as follows :—

- (i) If the polling station at which the person is on duty be in the same constituency as the one in which he is entitled to vote he shall record his vote at such station in accordance with the provisions of rule 11(1) of this Part.
- (ii) If the polling station at which the person is authorised or appointed for duty is not in the same constituency

as the one in which he is entitled to vote, then the Presiding Officer shall along with the ballot paper or papers issue to the person as many envelopes as there are candidates for the constituency in which he is entitled to vote, each envelope having on its outside the symbol or the name of the symbol assigned to the respective candidate written, with instructions similar to those contained in sub-rule (5) of rule 9. The person shall then go inside the polling compartment and place the ballot paper or papers in the envelope or envelopes according to his choice, close the envelopes, and enclose them in a cover to be supplied to him by the Presiding Officer and then hand the cover over to the Presiding Officer. The Presiding Officer shall, as soon as practicable after the close of the poll, despatch the cover together with the certificate delivered to him under sub-rule (1) to the Returning Officer concerned.

20. The presiding officer of each polling station, as soon as practicable after the close of the poll, shall, in the presence of any candidates or polling agents who may be present, make up into separate parcels and seal with his own seal and the seal of such candidates or agents as may desire to affix their seal :—

Delivery of ballot boxes, etc., to the Returning Officer after the close of the poll.

- (1) each ballot box in use at each station unopened but with the key attached and the slit in the lid sealed up ;
- (2) the unused ballot papers ;
- (3) the tendered ballot papers ;
- (4) the spoilt ballot papers ;
- (5) the marked copy of the electoral roll ;
- (6) the counterfoils of the ballot papers ;
- (7) the tendered votes list ;
- (8) the list of challenged votes ; and
- (9) the envelopes referred to in rule 19 of this Part ;

and shall deliver such packets or cause them to be delivered to the Returning Officer.

21. The packets shall be accompanied by a statement in the form given in Appendix K made by the presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued, unused, spoilt, tendered ballot papers, and ballot papers dealt with under rule 19(2) (ii) of this Part.

Statement by the presiding officer after the close of the poll.

PART VI

COUNTING OF VOTES

Appointment of time, place and date for counting of votes. 1. (1) The Governor in his discretion shall appoint a date (which shall be as soon as practicable after the close of the poll) and a time and place for the counting of the votes, and the Returning Officer shall give notice thereof in writing to all candidates and their election agents.

(2) If, at the time appointed, all the ballot boxes have not been received by the Returning Officer or if from any other unavoidable cause he is unable to proceed with the counting of votes, he shall with the previous consent of the Governor in his discretion postpone the counting to some other date and time appointed by the Governor in his discretion. The Returning Officer shall give notice thereof in writing to all candidates and election agents.

Persons who may be present at the counting of votes. 2. (1) No person shall be allowed to be present at the counting of the votes except the Returning Officer and such persons as he may appoint to assist him in counting the votes, and such other persons as have a right to be present under sub-rule (5) of rule 6 of Part IV.

(2) No person shall be appointed to assist in counting the votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

Procedure to be followed at the counting of votes. 3. On the day and at the time appointed under rule 1 of this Part the Returning Officer shall, before he commences to count the votes, read the provisions of *section 14 of the Indian Election Offences and Inquiries, Act, 1920, to such persons as may be present and shall then proceed as follows:—

(a) All the ballot boxes allotted to a particular candidate shall be separated from those allotted to any other candidate and numbered and placed together, and the counting of all the ballot papers contained in the boxes allotted to the same candidate shall be completed before the counting of the ballot papers contained in the boxes allotted to any other candidate is commenced. The order as between the candidates in which the counting of votes shall proceed shall be the alphabetical order of the candidates' surnames. In case of dispute the decision of the Returning Officer shall be final. The Returning Officer or a person authorised by him shall distribute ballot papers in convenient bundles to the persons appointed to assist in the counting of votes.

*See note below rule 8 of Part V.

- (b) When the ballot papers have been so distributed but not before, the Returning Officer shall allow the candidates and their election agents, or representatives duly authorised under sub-rule (5) of rule 6 of Part IV as may be present, reasonable opportunity to inspect, without handling, the ballot papers, and shall on every ballot paper which is rejected endorse the word "rejected". If any candidate or his agent or representative present questions the correctness of the rejection, he shall also record on the ballot paper the grounds for the rejection.
- (c) The Returning Officer shall, as far as practicable, proceed continuously with the counting of the votes, and shall, during any necessary intervals during which the counting has to be suspended, place the ballot papers, packets and other documents relating to the election under his own seal and the seals of such candidates, or election agents as may desire to affix them, and shall cause adequate precautions to be taken for their custody.
- (d) After the counting of ballot papers contained in all the ballot boxes has been completed, the Returning Officer shall record the number of ballot papers contained in the ballot boxes allotted to each candidate in a statement in which he shall also show the number of votes received for each candidate in accordance with the provisions of sub-rule (2)(ii) of rule 19 of Part V and shall seal in a separate packet all the ballot papers in support of each candidate.

4. When the counting of votes has been completed, the Returning Officer shall, subject to the provisions of paragraph 17 of Part I of the Government of India (Provincial Legislative Assemblies) Order, 1936, forthwith declare the candidate or candidates to whom the largest number of valid votes has been given to be elected :

Declaration of candidates elected.

Provided that upon the application of any candidate or his election agent or his representative duly authorised under sub-rule (5) of rule 6 of Part IV a recount shall be made before the Returning Officer makes the declaration but the Returning Officer may reject any such application as may appear to him to be frivolous recording at the same time the grounds for such rejection :

Provided also that, where a poll has been taken under rule 8 of Part III in a constituency in which a seat is reserved for members of the Scheduled Castes, the Returning Officer shall, after the counting of votes has been completed, out of the total number of candidates for the reserved as well as the non-reserved seats, first ascertain which of the Scheduled Caste candidates who were duly elected at the primary election as candidates for the reserved seat has received the largest number of valid votes and shall declare such person elected to the reserved seat and, then, out of the remaining candidates (whether belonging to the Scheduled Castes or not), he shall declare elected to the non-reserved seat or seats the candidate or candidates, to whom the largest number of valid votes has been given.

Grounds
for rejection
of ballot
paper.

5. (1) A ballot paper shall be rejected if—

- (a) it does not contain the official mark referred to in sub-rule (3) of rule 9 of Part V ;
- (b) it bears any mark by which the voter can be identified other than the name of the candidate written by the voter in the manner provided by rule 19 of Part V ;
- (c) in the case where it is despatched in a cover under clause (ii) of sub-rule (2) of rule 19 of Part V to the Returning Officer the cover does not contain the certificate issued under rule 18 of Part V to the voter whose vote is recorded on such ballot paper.

(2) The decision of the Returning Officer as to the validity of a ballot paper shall be final, subject only to reversal on an election petition claiming the seat.

Verifica-
tion of state-
ments sub-
mitted by
the presiding
officers.

6. The Returning Officer shall not open the sealed packets of the tendered votes, the marked copy of the electoral roll or the counterfoils of the ballot papers. He shall verify the statements submitted by the presiding officers under rule 21 of Part V by comparing them with the statement prepared under clause (d) of rule 3 of this Part and the latter with the number of counted votes and rejected ballot papers, the unused ballot papers in his possession and the tendered votes list, shall then reclose and reseal each packet which has been opened by him, and shall record on each packet a description of its contents and the date of the election to which it refers.

Return by
the Return-
ing Officer.

7. The Returning Officer shall then prepare and certify a return setting forth—

- (1) the result of the verification referred to in rule 6 of this Part,
- (2) the names of the candidates for whom valid votes have been given,
- (3) the number of valid votes given for each candidate,
- (4) the names of the candidates declared elected,
- (5) the number of votes declared invalid, and
- (6) the number of tendered votes given,

and shall permit any candidate or his election agent or representative duly authorised under sub-rule (5) of rule 6 of Part IV to take a copy of, or an extract from, such return.

Return to
be sent to
Government.

8. (1) The Returning Officer shall, after reporting the result of the election under sub-rule (7) of rule 6 of Part IV, forward the return mentioned in the preceding rule to the Secretary to the Government of Assam in the Legislative Department.

(2) Copies of returns by the Returning Officer shall be furnished by the Secretary to the Government of Assam in the Legislative Department on payment of a fee of Rs.2 for each copy.

PART VII

SPECIAL RULES APPLICABLE TO THE EUROPEAN CONSTITUENCY, THE EUROPEAN AND INDIAN PLANTING CONSTITUENCIES, AND THE EUROPEAN AND INDIAN COMMERCE AND INDUSTRY CONSTITUENCIES

1. In the case of an election for the European constituency, Special rules to be applicable to the European and Indian Planting constituencies and the European and Indian Commerce and Industry constituencies elections in Parts V and VI of these rules shall not apply and the rules in this the European Part shall govern the procedure for voting and for the counting of votes in such constituencies. pean and in the Planting and Commerce and Industry constituencies.

2. Not later than fourteen days before the date fixed for the closure of the poll, the Returning Officer shall send by registered post to each elector a ballot paper bearing the official mark in the form given in Appendix L, together with an intimation of the date appointed for the counting of votes, and shall enter on the counterfoil of each ballot paper the name of the elector to whom the ballot paper is sent. The ballot paper, together with the above particulars, shall be sent to the address of the elector as shown in the electoral roll, unless the elector has, since the publication of the roll, satisfied the Returning Officer that he has changed his address, in which case the ballot paper shall be sent to the new address : Returning Officer to send ballot papers by post.

Provided that in the case of a Commerce and Industry constituency, where the owner or nominee of the owner of a factory or the nominee or nominees of a firm, corporation or Hindu joint family are entered on the electoral roll of the constituency as a voter or voters, the Returning Officer shall send only one ballot paper to such factory, firm, corporation or Hindu joint family to the address of its office as given in the electoral roll instead of to the nominee or nominees thereof, and shall enter on the counterfoil of the ballot paper so sent the name of such factory, firm, corporation or Hindu joint family together with the names of its owner, nominee or nominees as shown in the electoral roll.

3. (1) An elector may send his ballot paper to the Returning Officer after recording his vote thereon in accordance with the instructions on the ballot paper: Provided that ballot papers to be returned after recording vote thereon. which are not received by the Returning Officer before 5 p. m., on the day preceding the date fixed for the counting of votes shall be rejected.

(2) If an elector is unable owing to illiteracy or blindness or physical incapacity or any other cause to record his vote and despatch his ballot paper in the manner prescribed in sub-rule (1) of this rule it shall be competent for him to record his vote by the hand of any Magistrate. Such Magistrate shall despatch the ballot paper in a closed envelope to the Returning Officer

with a covering letter stating that he is satisfied that the elector is unable to record his vote unaided, that he was requested by the elector to mark the ballot paper and that the said paper was marked by him in the presence of the elector and in accordance with the elector's directions.

Provision for spoiled paper. 4. When a ballot paper sent by post is, for any reason, returned undelivered, the Returning Officer may reissue it by registered post or himself hand it over to the elector but duplicate ballot papers shall not be issued except in cases where an elector has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as such. In such cases the elector may, on delivering it personally to the Returning Officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoiled paper and the latter shall with its counterfoil be marked as cancelled by the Returning Officer :

Provided that in the case of a factory, firm, corporation or Hindu joint family, undelivered or duplicate ballot papers under this rule may only be issued on the application of such factory, firm, corporation or Hindu joint family to its address as given in the electoral roll or delivered to a representative authorised in writing by it on his personally applying for the same.

Procedure of return of ballot papers. 5.(1) On receipt of a ballot paper from an elector the Returning Officer shall make a mark against the entry of the elector's name in the electoral roll to denote that the elector has returned a ballot paper, and shall deposit the closed envelope containing the ballot paper in a securely locked ballot box.

(2) If a ballot paper is received back from an elector duly marked and with a covering letter signed by the elector but the ballot paper is not enclosed in a closed envelope in accordance with the instructions, the Returning Officer shall himself place such ballot paper in a closed envelope and deposit it in the ballot box. If, however, a closed envelope purporting to contain a ballot paper is received without a covering letter and the Returning Officer is unable to ascertain (without actually opening the closed envelope and comparing the serial number with the electoral roll) from whom the ballot paper has been received, such envelope shall not be placed in the ballot box but shall be set aside in a separate packet and the ballot paper (if any) contained therein shall be rejected at the time of the counting of the votes.

Tendered ballot papers.

6. If a ballot paper is received purporting to come from a particular elector named on the electoral roll after another ballot paper has been received purporting to come from such elector, the closed envelope shall be endorsed by the Returning Officer with the name of the elector and his number on the electoral roll and set aside in a separate packet. The ballot paper contained in such closed envelope shall be treated as a tendered ballot paper and shall not be counted by the Returning Officer at the time of the counting of the votes.

Procedure after close of poll.

7. As soon as practicable after the close of the poll the Returning Officer shall make up into separate packets and seal with his own seal—

- (1) the ballot box unopened but with the key attached ;
- (2) the unused ballot papers ;

- (3) the tendered ballot papers ;
- (4) the marked copy of the electoral roll ;
- (5) the counterfoils of the ballot papers ; and
- (6) the spoilt ballot papers cancelled under rule 4 of this Part.

8. The Returning Officer shall also prepare a statement (ballot paper account) showing the total number of ballot papers provided by him and accounting for them under the heads of "unused ballot papers," "ballot papers in the ballot box", "tendered ballot papers", "ballot papers not returned" and "spoilt papers".

9.(1) The Governor acting in his discretion shall appoint a date which shall be the day following the date fixed for the closure of poll, and a time and place for the counting of votes, and the Returning Officer shall give notice thereof in writing to the candidates and their election agents. Procedure to be followed in counting the votes.

(2) No person shall be allowed to be present at the counting of the votes except the Returning Officer and such persons as he may appoint to assist him in counting the votes and such other persons as have a right to be present under sub-rule (5) of rule 6 of Part IV.

(3) No person shall be appointed to assist in counting the votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

(4) On the day and at the time and place appointed the Returning Officer shall first of all read the provisions of *section 14 of the Indian Election Offences and Inquiries Act, 1920, to such persons as may be present and shall then—

- (a) open the ballot box and separate or cause to be separated the ballot papers which he deems valid from those which he rejects endorsing on the latter the word "rejected" and the ground of rejection ;
- (b) count, or cause to be counted, the votes given to each candidate and, subject to the provisions of paragraph 17 of Part I of the Government of India (Provincial Legislative Assemblies) Order, 1936, declare the candidate or candidates, with the largest number of valid votes, to be elected ;

- (c) upon the completion of the counting verify the ballot paper account prepared under rule 8 of this Part by comparing it with the number of ballot papers recorded by him as aforesaid, the unused ballot papers in his possession and the number of spoilt and tendered ballot papers. He shall then seal up in separate packets the counted and rejected ballot papers, but shall not open the sealed packets of the tendered votes, the marked copies of the roll and the counterfoils, and shall reseal each packet which has been opened by him and shall record on each packet a description of its contents and the date of the election to which it refers ;

- (d) prepare and certify a return setting forth—

- (1) the result of the verification referred to in the preceding clause,

*See note below rule 8 of Part V.

- (2) the names of the candidates for whom valid votes were given,
- (3) the number of valid votes given for each candidate,
- (4) the names of the candidates declared elected,
- (5) the number of votes declared invalid, and
- (6) the number of tendered votes given ;
- (e) permit any candidate or his election agent or representative duly authorised in writing to take a copy of, or an extract from, such return.

10. (1) Any ballot paper which is not duly marked, or on which more than one mark is placed against any candidate's name, or on which votes are given to more candidates than there are members to be elected, or on which a mark is placed in such a manner as to make it doubtful to which candidate it has been given, or on which any mark is made by which the voter may be identified, shall be invalid and shall be rejected :

Grounds on which ballot papers shall be invalid.

Provided that in the case of the *European Planting constituency a ballot paper shall not be invalid on account of the placing of more than one mark against any candidate's name if, in such constituency, the number of members to be elected at that election is more than one.

(2) The decision of the Returning Officer as to the validity of a ballot paper shall be final, subject only to reversal on an election petition claiming the seat.

11. (1) The Returning Officer, after reporting the result of the election under sub-rule (7) of rule 6 of Part IV, shall forward the return mentioned in clause (d) of sub-rule (2) of rule 9 of this Part to the Secretary to the Government of Assam in the Legislative Department.

Return to be sent to Government.

(2) Copies of returns by the Returning Officer shall be furnished by the Secretary to the Government of Assam in the Legislative Department on payment of a fee of Rs.2 for each copy.

Savings.

12. No election shall be invalidated by reason that an elector has not received his ballot paper provided that a ballot paper has been issued to him in accordance with these rules.

PART VIII

ELECTION AGENTS AND EXPENSES

A.—Election agents and expenses in primary elections held under the provisions of Part III

Election agents and expenses in primary elections for Scheduled Caste candidates.

1. The provisions of Part II of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Orders, 1936, which is referred to in the rules in this Part as "the Order" shall, as modified by these rules, apply to a primary election held for the purpose of selecting Scheduled Caste candidates for a seat reserved in a constituency for members of the Scheduled Castes.

*NOTE.—The European Planting constituency is a plural member constituency with cumulative voting.

2. The books of account to be kept by an election agent under paragraph 4 of Part II of the Order shall contain a statement of all payments made by the candidate or by his election agent or by any persons on behalf of the candidate or in his interests for expenses incurred on account of, or in respect of the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

Accounts of agents in primary elections.

3. The return of primary election expenses of persons who were not elected at the primary election to the panel of candidates shall be lodged with the Returning Officer within thirty-five days from the date of the declaration of the result of such primary election and the return of primary election expenses of persons who were duly elected to such panel shall be lodged with the Returning Officer, along with the return of their election expenses at the final election, within thirty-five days from the publication of the result of the final election in the Gazette.

Return of primary election expenses: when to be lodged.

4. (1) The return of election expenses for a primary election shall be signed both by the candidate and his election agent and shall contain a brief statement of all expenditure incurred by the candidate in connection with the candidature whether paid by the candidate, his election agent or any other person or remaining unpaid on the date the return is lodged.

Form of return of primary election expenses.

(2) The return shall be accompanied by the declarations prescribed in Part III of Appendix M.

(3) Every such return shall also bear non-judicial stamps of the value of two rupees without which the Returning Officer shall not accept the return.

5. The provisions of rule 9 of this Part shall apply to such returns provided that the notice referred to in that rule need not be published in the Gazette.

Inspection and copy of return of primary election expenses.

B.—Election agents and expenses in election other than primary elections

6. A person belonging to a Scheduled Caste who was declared duly elected at a primary election and who stands at a final election shall keep a separate account of his expenditure in connection with the final election and no part of the expenses incurred by him in connection with the primary election shall be included in such account or in his return of election expenses for the final election.

Scheduled Caste candidate to keep separate account of election expenses of final election.

7. The books of account to be kept by an election agent under paragraph 4 of Part II of the Order shall contain a statement of all payments made by the candidate or by his election agent or by any persons on behalf of the candidate or in his interests for expenses incurred on account of, or in respect of, the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

Accounts of agents.

Return of
election ex-
penses.

8. (1) The return of election expenses under paragraph 5 of Part II of the Order shall be lodged with the Returning Officer within thirty-five days from the date of the publication of the result of the election in the Gazette.

(2) The return of election expenses shall be in the form given in Appendix M and the declarations referred to in subparagraphs (2) and (3) of paragraph 5 of Part II of the Order shall be in the forms contained in the said Appendix.

(3) If a candidate or election agent who is required to sign the return of election expenses and declarations referred to in this rule and in rule 4 of this Part is unable to write his name, "sign" in relation to such person means authenticate by making a mark.

(4) Every such return shall also bear non-judicial stamps of the value of two rupees without which the Returning Officer shall not accept the return.

(5) The Returning Officer shall report to the Governor within 15 days from the date by which the return of election expenses of candidates ought to have been lodged with him, whether or not the candidates and their election agents have complied with the requirements of this rule.

(6) On receipt of a report under sub-rule (5) the Governor exercising his individual judgment shall decide whether the disqualification under paragraph (f) of sub-section (1) of section 69 of the Act has, in fact, been incurred in any election to fill a seat, with the result that the seat shall thus become vacant.

Inspection
and copy of
return of
election ex-
penses.

9 When any return and declarations made in respect thereof have been lodged with the Returning Officer, the Returning Officer shall, as soon as may be, cause a notice of the date on which the return and the declarations in question have been lodged, and of the time and place at which they can be inspected, to be posted in some conspicuous place in his office and to be published in the Gazette, and any person shall, on payment of a fee of one rupee, be entitled to inspect any such return or declaration and, on payment of such fee as the Governor may direct, to obtain a copy or copies thereof or of any part thereof.

Maintenance
of record re-
garding re-
turn of elec-
tion expenses.

10. The Governor shall cause to be prepared in such manner, and maintained for such time, as he may direct, a record showing the names of all candidates at every election under these rules and the name of the election agent of each such candidate and the date on which the return of election expenses of each candidate has been lodged with the Returning Officer.

11. The following shall be the maximum scale of election of election expenses (including the personal expenses of a candidate) which expenses may be incurred by a candidate for election in a constituency of the Assam Legislative Assembly :—

Nature and class of constituency	Maximum limit of expenditure
----------------------------------	------------------------------------

I. Symbol System Voting Constituencies, viz.,

(i) General Constituencies	} Rs.4,000.
(ii) Muhammadan Constituencies	
(iii) Women's Constituency	
(iv) Indian Christian Constituency	
(v) Backward Tribal (Plains) Constituencies	
(vi) Backward Areas (Hills) Constituencies ...	
(vii) Labour (Tea Garden) Constituencies ...	

NOTE.—In the case of Scheduled Caste candidates standing in the General constituencies to contest the seats reserved for them, the maximum shall cover the cost of both elections, primary and final.

II. Postal System Voting Constituencies, viz.,

(i) European Constituency	} Rs.2,000.
(ii) Planning Constituencies	
(iii) Commerce and Industry Constituencies ...	

12. The maximum numbers of persons who may be employed for payment by a candidate in connection with an election and their description shall be as shown hereunder :—

Description of persons	Maximum numbers of persons who may be employed for payment	Maximum numbers and description of persons to be employed for payment in connection with elect- ions.
Election Agent ...	One.	
Sub-Agents ...	<i>I. Symbol System Voting Constituencies—</i>	
	For each polling area—One	
	<i>II. Postal System Voting Constituencies—</i>	
	For each Constituency—Two	

Description of persons	Maximum numbers of persons who may be employed for payment
Polling Agents ...	<p>... I. For each polling station—</p> <p>Two (one for relief) ; or alternatively.</p> <p>II. For each polling booth :</p> <p>Two (one for relief).</p>
Clerks and Messengers ...	<p>I. <i>Symbol System Voting Constituencies—</i></p> <p>For each polling station—</p> <p>(a) One clerk and one messenger for any number up to 1,000 registered electors.</p> <p>(b) One additional clerk and one additional messenger for every extra 1,000 registered electors or part thereof.</p> <p>II. <i>Postal System Voting Constituencies—</i></p> <p>For the Election Agent—</p> <p>One Clerk and one messenger.</p> <p>For each Sub-Agent—</p> <p>One clerk and one messenger.</p>

PART IX

THE DECISION OF DOUBTS AND DISPUTES AS TO THE
VALIDITY OF A PRIMARY ELECTION IN THE CASE
OF MEMBERS OF THE SCHEDULED CASTES

1. The provisions of Part III of the Government of India Special provisions for (Provincial Elections) (Corrupt Practices and Election Petitions) decision of Order, 1936 and Part X of these rules shall not apply to the doubts and decision of doubts and disputes as to the validity of a primary disputes in election but the provisions of this Part shall apply to the decisions primary elec- tions. of such doubts and disputes.

2. In this Part, unless there is anything repugnant in the Definitions. subject or context—

- (a) "the Order" means the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936 ;
- (b) "primary election" means primary election held for the purpose of selecting a panel of Scheduled Caste candidates for a seat reserved in a constituency for members of the Scheduled Castes ;
- (c) "candidate" means a person belonging to a Scheduled Caste who has been nominated as a candidate for a primary election or who claims that he has been so nominated or that his nomination has been improperly refused ;
- (d) "elected candidate" means a candidate who has been declared as duly elected at a primary election under the provisions of rule 4 or 5 of Part III of these rules ;
- (e) "corrupt practice" means one of the practices specified in the First Schedule to the Order ;
- (f) "agent" includes an election agent and any person who, on the trial of an election petition, is held by the District Magistrate under this Part to have acted as an agent in connection with a primary election with the knowledge or consent of the candidate ; and
- (g) "Sign" in relation to a person who is unable to write his name means authenticate by making a mark.

3. No primary election shall be called in question except by The election an election petition presented in accordance with the provisions petition. of this Part.

4. (1) An election petition may be presented to the District Election Magistrate of the district in which the constituency is situate petition when against an elected candidate by any candidate who has not been and by whom declared elected at a primary election within two days from the to be present- ed. date on which the result of the primary election is declared by the Returning Officer under these rules, on the ground of any illegality or irregularity in procedure or on the ground that a corrupt practice has been committed at the primary election.

(2) When the last day of the period for the presentation of an election petition under this rule is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the Governor as a day to be observed as a holiday in Government offices, the petition shall be considered as having been received in due time if it is presented on the next succeeding day which is neither such a public holiday nor a day so notified.

Election
petition to
whom to be
presented.

5. An election petition shall be presented to the District Magistrate by the person making the petition or by a person authorised in writing in that behalf by the person making the petition.

Contents of
the petition.

6. (1) The petition shall contain a statement in concise form of the material facts on which the petitioner relies and shall be signed by the petitioner.

(2) The petition shall be accompanied by a list signed by the petitioner setting forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

(3) The petitioner may, if he so desires, in addition to calling in question the election of an elected candidate, claim a declaration that he himself has been duly elected.

Deposit of
security.

7. At the time of the presentation of the petition, the petitioner shall enclose with the petition a Government treasury receipt (chalan) showing that a deposit of two hundred and fifty rupees has been made in the treasury as security for the costs of the petition.

Time of
completion
of the inquiry.

8. All inquiries regarding election petition presented under rules 4 and 5 of this Part including delivery of judgment shall be completed by the District Magistrate within ten days from the date of presentation of the petition.

Inquiry by
the District
Magistrate.

9. (1) If the provisions of rules 4, 5, 6 or 7 of this Part are not complied with, the District Magistrate shall dismiss the petition.

(2) If the petition is not dismissed under sub-rule (1), the District Magistrate shall, after giving notice to each respondent, hold a summary inquiry at such place and on such a date as may be fixed by him.

(3) Subject to the other provisions of this Part, every election petition shall be inquired into by the District Magistrate as nearly as may be in accordance with the procedure applicable under the Code of Criminal Procedure, 1898, to summary trials.

Withdrawal
of petition.

10. (1) An election petition may be withdrawn by leave of the District Magistrate.

(2) If the application for withdrawal of a petition is granted, the petitioner shall be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the District Magistrate may think fit and the petitioner shall further be ordered to pay such costs of the Government theretofore incurred as may be assessed by District Magistrate.

11. An election petition shall abate on the death of a sole petitioner or of the survivor of several petitioners. Abatement of petition.

12. (1) If, after holding the summary inquiry referred to in rule 9 of this Part, the District Magistrate is of opinion that, Grounds for declaring election void.

- (a) the election of an elected candidate has been procured or induced, or the result of the primary election has been materially affected, by any corrupt practice ; or
- (b) any corrupt practice specified in Part I of the first Schedule to the Order has been committed in the interest of an elected candidate ; or
- (c) the result of the primary election has been materially affected by the improper acceptance or rejection of any nomination, or by reason of the fact that any person nominated was not qualified or was disqualified for election, or by the improper reception or refusal of a vote, or by the reception of any vote which is void or by any non-compliance with the provisions of the Act or of any Order in Council or rule made thereunder or of any Act of the Provincial Legislature relating to the election, or by any mistake in the use of any prescribed form ; or
- (d) the election has not been a free election by reason of the large number of cases in which bribery or undue influence has been exercised or committed,

the election of the elected candidate shall be void.

(2) If the District Magistrate is of opinion that an elected candidate has been guilty by an agent, other than his election agent, of any corrupt practice specified in Part I of the First Schedule to the Order, but the candidate has satisfied him that—

- (a) no corrupt practice was committed at the election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders, and without the sanction or connivance, of the candidate or his election agent ;
- (b) the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election ;
- (c) the corrupt practices mentioned in the report were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election ; and
- (d) in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents,

then the District Magistrate may find that the election of the candidate is not void.

(3) If a person (not being entitled so to do) votes more than once at the same primary election, all his votes shall be deemed for the purposes of this rule to be void.

13. (1) At the conclusion of the inquiry the District Magistrate shall deliver his decision in writing in the form of a judgment of the inquiry. and such decision shall be final.

(2) In the judgment delivered under sub-rule (1) the District Magistrate shall declare which of the elected candidates have been duly elected and also whether any person who has presented a petition and claimed a declaration that he has been duly elected has, in fact, been duly elected or not. He shall also, after calculation, record in his judgment a finding as to the total amount of costs incurred in the inquiry by the parties and by the Government and shall order by what persons and in what proportions such costs are to be paid.

(3) The District Magistrate, on delivery of judgment under sub-rule (1), shall forthwith forward one copy of the judgment to the Governor and another copy to the Returning Officer.

(4) The Returning Officer, on receipt of a copy of the judgment, shall, if necessary, amend the list prepared by him under sub-rule (5) of rule 5 of Part III of these rules and cause the amended list to be affixed again in the manner provided in the said sub-rule :

Provided that if the District Magistrate records a finding that the election of all the elected candidates is void and no other party to the petition is entitled to be declared elected, then the Returning Officer shall bring the fact to the notice of the Governor to enable the Governor to take necessary action for the purpose of a fresh primary election under these rules.

14. Where any charge is made in an election petition of any finding as to corrupt practices and persons guilty thereof—
 judgment—

- (a) a finding whether a corrupt practice has or has not been proved to have been committed by any candidate or his agent or with the connivance of any candidate or his agent and the nature of that corrupt practice ; and
- (b) the names of all persons (if any) who have been proved at the inquiry to have been guilty of any corrupt practice and the nature of that practice with any such recommendation as the District Magistrate may think proper to make for the exemption of any such persons from any disqualifications for voting which they may have incurred in this connection under Part IV of the Order :

Provided that no person shall be so named in the judgment unless he has been given a reasonable opportunity of showing cause why his name should not be so recorded.

PART X

THE DECISION OF DOUBTS AND DISPUTES AS TO THE
VALIDITY OF AN ELECTION

1. In this part, unless there is anything repugnant in the subject or context— Definitions.

- (a) "the Order" means the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936 ;
- (b) "candidate," "electoral light," "returned candidate" and "corrupt practice" have the same meanings as in paragraph 1 of Part III of the Order ;
- (c) "Commissioners" means Commissioners appointed under paragraph 4 of Part III of the Order for the trial of an election petition and "President" means the President of a Commission appointed under the said paragraph ; and
- (d) "Sign" in relation to a person who is unable to write his name means authenticate by making a mark.

2. (1) An election petition against any returned candidate may be presented to the Governor under Part III of the Order— Presentation of the petition.

- (a) by any candidate or elector within 14 days from the date on which the notice of the return of election expenses of the returned candidate and of the declarations referred to in paragraph 5 of Part II of the Order is published in the Gazette ; or
- (b) within 30 days from that date by an officer referred to in paragraph 3 of Part III of the Order.

(2) An election petition shall be deemed to have been presented to the Governor when it is delivered to the Governor or to any officer appointed by him in this behalf—

- (a) by the person making the petition ; or
- (b) by the person authorised in writing in this behalf by the person making the petition ; or
- (c) by registered post.

(3) When the last day of the period for the presentation of an election petition under this rule is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881 or has been notified by the Governor as a day to be observed as a holiday in Government offices, the petition shall be considered as having been received in due time if it is presented on the next succeeding day which is neither such a public holiday nor a day so notified.

(4) For the purposes of clause (a) of sub-rule (1) the date on which the return of the election expenses and the declarations referred to in paragraph 5 of Part II of the Order are received by the Returning Officer shall, in the case of a candidate who has made such return and declaration in the manner provided in sub-paragraph (3) of that paragraph, be deemed to be the date on which the declaration of the candidate under that sub-paragraph is received.

3. (1) The petition shall contain a statement in concise form of the material facts on which the petitioner relies and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

(3) The Commissioners may, upon such terms as to costs and otherwise as they may direct at any time, allow the particulars included in the said list to be amended or order such further and better particulars in regard to any matter referred to therein to be furnished as may, in their opinion, be necessary for the purpose of ensuring a fair and effectual trial of the petition.

Against whom it may be presented. 4. The petitioner may, if he so desires, in addition to calling in question the election of the returned candidate, claim a declaration that he himself or any other candidate has been duly elected, in which case he shall join as respondents to his petition all other candidates who were nominated at the election.

Deposit of security. 5. At the time of presentation of the petition the petitioner shall, except where the petition is presented under clause (b) of sub-rule (1) of rule 2 of this Part, enclose with the petition a Government treasury receipt (chalan) showing that a deposit of one thousand rupees has been made by him in the treasury as security for the costs of the petition.

Petition when to be dismissed. 6. (1) If the provisions of rule 2, 3 or 5 of this Part are not complied with the Governor exercising his individual judgment shall dismiss the petition.

(2) If the petition is not dismissed under sub-rule (1) the president of the Commissioners appointed by the Governor under the provisions of paragraph 4 of Part III of the Order shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the Gazette, and may call on petitioner to execute a bond in such amount and with such sureties as he may require for the payment of any further costs. At any time, within fourteen days after such publication, any other candidate shall be entitled to be joined as a respondent on giving security in a like amount and procuring the execution of a like bond:

Provided that the execution of such a bond by the petitioner shall not be required in any case where the petition has been presented under clause (b) of sub-rule (1) of rule 2 of this Part.

Inquiry by Commissioners. 7. Subject to the other provisions of these rules, every election petition shall be inquired into by the Commissioners, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits:

Provided that it shall only be necessary for the Commissioners to make a memorandum of the substance of the evidence of any witness examined by them.

8. The inquiry shall be held at such place as the Governor ^{Place of} may appoint : ^{inquiry.}

Provided that the Commissioners may in their discretion sit at any other place in the province for any part of the inquiry, and may depute any one of their number to take evidence at any place in the province.

9. (1) An election petition may be withdrawn only by leave ^{Withdrawal} of the Commissioners or, if an application for withdrawal is made ^{of petition.} before any Commissioner has been appointed, of the Governor exercising his individual judgment.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made, except with the consent of all the petitioners.

(3) When an application for withdrawal is made to the Commissioners, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Gazette.

(4) No application for withdrawal shall be granted if, in the opinion of the Governor exercising his individual judgment or of the Commissioners, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted—

- (a) the petitioner shall, where the application has been made to the Commissioners, be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the Commissioners may think fit;
- (b) notice of the withdrawal shall be published in the Gazette by the Governor or by the Commissioners, as the case may be ; and
- (c) any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and, upon compliance with the conditions of rule 5 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

(6) When an application for withdrawal is granted by the Commissioners and no person has been substituted as petitioner in place of the party withdrawing under clause (c) of sub-rule (5), the Commissioners shall report the fact to the Governor.

10. (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners :

^{Abatement}
^{or substitution}
^{on death}
^{of petitioner.}

Provided that, where such sole petitioner was an officer empowered under clause (b) of paragraph 3 of Part III of the Order, the proceedings may be continued by any other officer empowered in this behalf by the Governor exercising his individual judgment.

(2) Notice of the abatement of an election petition shall be published in the Gazette by the Commissioners or if the petition abates before any Commissioner has been appointed, by the Governor.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner, and, upon compliance with the conditions of rule 5 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

Abatement
or substitution
on death
of respondent.

11. If before the conclusion of the trial of an election petition the respondent dies or gives notice that he does not intend to oppose the petition, the Commissioners shall cause notice of such event to be published in the Gazette and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Commissioners may think fit.

Recrimina-
tion when
seat claimed.

12.(1) Where at an inquiry into an election petition any candidate, other than the returned candidate, claims the seat for himself, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of the publication of the election petition under sub-rule (2) of rule 6 of this Part, given notice of his intention to the Commissioners and made the deposit and procured the execution of the bond referred to in rules 5 and 6 respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and list of particulars required by rule 3 of this Part in the case of an election petition and shall be signed and verified in like manner.

PART XI

MISCELLANEOUS

Non-British
subjects.

1. A person who would be so qualified if he were a British subject shall, even though he is not a British subject, be qualified to be chosen to fill a seat in the Assam Legislative Assembly if he is the Ruler or subject of the Manipur State or of any Khasi State or belongs to the community known as "Marwari" or is the subject of any State in India who is retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Majesty's regular military forces or the Assam Rifles or a retired, pensioned or discharged officer or member of the Indian Police Forces.

2. If a person is elected to more than one seat in the Assam Legislative Assembly, then unless within seven days from the date of the publication in the Gazette of the name of that person as having been so elected or, where such publication has been made on different dates, unless within seven days from the latest of such dates, such person resigns all but one of the seats, all the said seats shall become vacant. If he resigns all but one seat, the remaining seat or seats shall become vacant.

Seats in the Assembly when to become vacant in case of election of the same person to more than one seat.

3. (1) When a seat becomes vacant or the election of a member is declared void, the Governor exercising his individual judgment shall, by notification in the Gazette, call upon the constituency to elect a person to fill the vacancy within such time as may be specified in the notification and these rules shall apply, as far as may be, to the procedure for the election of a member to fill such vacancy.

Casual vacancies.

(2) If the vacancy so caused be a vacancy in a seat reserved in a constituency for the members of the Scheduled Castes, the Governor exercising his individual judgment shall, by a notification in the Gazette, call upon the members of the Scheduled Castes who are entitled to vote in that constituency to elect at a primary election under these rules a panel of not more than four candidates for the said seat within such time as may be specified in that notification and by a subsequent notification in the Gazette, call upon the constituency concerned to elect a person for the purpose of filling the vacancy so caused within such time as may be specified in such notification :

Provided that where the election of all the candidates elected at a primary election held in pursuance of a notification issued under this sub-rule is declared void at an election inquiry held under Part IX of these rules, the Governor exercising his individual judgment shall again, by a notification in the Gazette, call upon the members of the Scheduled Castes who are entitled to vote in the constituency concerned to elect at a fresh primary election under these rules a panel of not more than four candidates for the said vacant seat within such time as may be specified in that notification and the notification under this rule calling upon the said constituency to elect a person for the purpose of filling the vacancy shall be issued subsequently.

4. (1) On the expiration of the duration of an Assembly or on its dissolution, a general election shall be held in order that a new Assembly may be constituted.

Reconstitution of Assembly.

(2) On such expiration or dissolution, the Governor exercising his individual judgment shall, by a notification in the Gazette, call upon the members of the Scheduled Castes who are entitled to vote in a constituency in which a seat is reserved for members of those castes to elect at a primary election under these rules a panel of not more than four candidates for each seat so reserved within such time as may be specified in that notification and, by a subsequent notification in the Gazette, call upon every constituency, including the constituencies in which seats are reserved for members of the Scheduled Castes, to elect a member or members in accordance with these rules within such time as may be specified in such notification :

Provided that, if the Governor exercising his individual judgment thinks fit, the first of the said notifications may be issued at any time not being more than four months prior to the date on which the duration of the Assembly would expire in the ordinary course of events :

Provided further that for the first general election to be held under the Act any of the said notifications may be issued when the Governor thinks fit :

Provided also that, where the election of all the candidates elected at a primary election held in pursuance of a notification issued under this rule is declared void at an election inquiry held under Part IX of these rules, the Governor exercising his individual judgment shall again, by a notification in the Gazette, call upon members of the Scheduled Castes who are entitled to vote in the constituency concerned to elect at a fresh primary election under these rules a panel of not more than four candidates for each of the reserved seats within such time as may be specified in that notification and the notification under this rule calling upon the constituency concerned to elect a member or members shall be issued subsequently.

Publication of results of general election. 5. As soon as may be after the expiration of the time fixed for the election of members at any general election, the names of the members elected for the various constituencies at such election shall be notified in the Gazette.

Prohibition against employment of certain persons as agents. 6. No person who is for the time being disqualified under the provisions of Part IV of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, from being a member of a Provincial Legislature or from voting at elections shall, so long as the disqualification exists, be employed by or on behalf of a candidate as an agent in connection with any election, including a primary election, held under the provisions of these rules.

PART XII.

SAFE CUSTODY, PRESERVATION AND INSPECTION OF BALLOT PAPERS, ELECTORAL ROLLS AND OTHER PAPERS RELATING TO ELECTIONS

Certain papers to be sent to Inspector General of Registration. 1. (1) After forwarding to the Secretary to the Government of Assam in the Legislative Department the return referred to in rule 8 of Part VI or rule 11 of Part VII the Returning Officer shall send to the Inspector General of Registration the following packets in his possession relating to the election, other than the packets relating to any primary election held for the purpose of electing Scheduled Caste candidates for reserved seats :—

- (1) the counted ballot papers ;
- (2) the rejected ballot papers ;
- (3) the tendered ballot papers ;
- (4) the marked copy of the electoral roll ;
- (5) the counterfoils of the ballot papers ;
- (6) the spoilt ballot papers ;
- (7) the tendered votes lists ;
- (8) the list of challenged votes ; and
- (9) the unused ballot papers.

(2) The Returning Officer shall keep all packets relating to a primary election in the district record-room and shall cause the same to be destroyed after one year.

2. While in the custody of the Inspector General of Registration or in the district record-room in respect of primary elections the packets of ballot papers, whether counted, rejected or tendered, and of the counterfoils of the ballot papers, shall not be opened and their contents shall not be inspected or produced except under the order of a competent Court or of Commissioners appointed to hold an inquiry in respect of an election; but all other documents relating to the election shall be open to public inspection and the Inspector General of Registration shall supply copies of, or extracts from, these documents, subject to such conditions and to the payment of such fee, if any, as the Governor may impose.

Certain packets in custody of Inspector General of Registration not to be opened.

3. The packets in the custody of the Inspector General of Registration shall be retained for a period of one year and shall thereafter be destroyed, subject to any direction to the contrary made by the Governor exercising his individual judgment or by a competent Court or by Commissioners appointed to hold an inquiry in respect of an election.

Packets to be kept for one year and then destroyed.

4 (1) The following rules shall be observed for the custody and preservation of the election papers enumerated below:—

Rules for custody of papers not sent to Inspector General of Registration.

- (i) Preliminary electoral rolls.
- (ii) Claims and objections with reference to the preliminary electoral rolls.
- (iii) Final electoral rolls.
- (iv) Nomination papers of candidates.
- (v) Withdrawal of candidature.
- (vi) Appointment letters of agents of candidates.
- (vii) Lists of candidates nominated.
- (viii) Election petitions and proceedings and reports of election Commissioners and judgments of District Magistrates thereon.
- (ix) Returns of election expenses.

(2) (a) With the exception of papers in items (iii), (viii) and (ix) of the above list, the said election papers shall, in the case of all constituencies except those mentioned in subrule (2) (b), be kept in the general record-room of the district to which they relate.

(b) In the case of the European constituency, the European Indian Planting constituencies, the European and Indian Commerce and Industry constituencies and the Indian Christian constituency the said papers shall be kept in the offices of the respective Returning Officers.

(c) Papers relating to claims and objections [item (ii)] decided by Revising authorities shall be kept until the next revision of the the electoral roll of the constituency to which they relate and shall then be destroyed. The other papers [excluding those in items (iii), (viii) and (ix)], shall be kept for a period of one year and shall then be destroyed, unless their retention for a longer period is otherwise ordered by competent authority.

(3) Three complete copies of so much of the final electoral rolls as relate to each district shall be deposited in the office of the deputy Commissioner of the district and three complete copies of the final electoral rolls of the European constituency, the European and Indian Planting constituencies, the European and Indian Commerce and Industry constituencies and the Indian Christian constituency shall be deposited in the offices of the Returning Officers of those constituencies. One complete copy of the electoral roll for each constituency shall also be kept for record in the Legislative Department.

(4) Copies of electoral rolls so deposited shall be preserved permanently and shall, before deposit, be duly authenticated by the Registering authority.

(5) Printed copies of electoral rolls in excess of the number required for permanent record shall be available for sale to the public and shall be kept in the offices of the Returning Officers concerned until the next revision of the electoral rolls for the constituencies to which they relate and shall then be destroyed or sold as waste paper.

(6) Election petitions and proceedings relating to primary elections in constituencies in which seats are reserved for members of the Scheduled Castes shall be kept in the record-room of the district to which they relate and destroyed after five years or as soon as the next general election has been completed. Other election petitions and proceedings and reports of election Commissioners shall be kept in the Legislative Department and shall be destroyed after five years or as soon as the next general election has been completed.

(7) The returns of election expenses lodged with Returning Officers shall be kept by them for five years or until the next general election is completed and shall then be destroyed.

(8) The public shall have a right to inspect the election papers enumerated in this rule and to get attested copies thereof on payment of fees prescribed for copies of records charged under the High Court Rules and Orders (Civil) :

Provided that returns of election expenses shall be available for inspection at the offices of the Returning Officers of the constituencies concerned on payment of a fee of Re. 1 each, and copies of such return shall be furnished on payment of a fee of Rs. 2 each.

APPENDIX A

ASSAM LEGISLATIVE ASSEMBLY

List of Registering Authorities

Area	Registering Authority
1. Silchar Sadr subdivision ...	} Senior Extra Assistant Commissioner.
2. Sylhet Sadr subdivison ...	
3. Shillong Sadr subdivision ...	
4. Dhubri Sadr subdivision ...	
5. Gauhati Sadr subdivision ...	
6. Tezpur Sadr subdivision ...	
7. Nowgong district ...	
8. Jorhat Sadr subdivision ...	
9. Dibrugarh Sadr subdivision ...	
10. Garo Hills ...	
11. Hailakandi subdivision ...	} (a) In subdivisions possessing more than one Extra Assistant Commissioner in addition to the Subdivisional Officer—the Senior Extra Assistant Commissioner. (b) In subdivisions possessing only one Extra Assistant Commissioner in addition to the Subdivisional Officer—the Extra Assistant Commissioner. (c) In subdivisions possessing no Extra Assistant Commissioner—the subdivisional Officer.
12. Jowai subdivision ...	
13. Sunamganj subdivision ...	
14. Habiganj subdivision ...	
15. South Sylhet subdivision ...	
16. Karimganj subdivision ...	
17. Goalpara subdivision ...	
18. Barpeta subdivision ...	
19. Mangaldai subdivision ...	
20. Sibsagar subdivision ...	
21. Golaghat subdivision ...	
22. North Lakhimpur subdivision ...	
*23. The Naga Hills district ...	Senior Assistant at Kohima to the Deputy Commissioner, Naga Hills.
*24. The Lushai Hills district...	Senior Assistant at Aijal to the Superintendent, Lushai Hills.
*25. The Sadiya Frontier Tract ...	The Assistant Political Officer at Sadiya.
*26. The Balipara Frontier tract , ...	The Head Clerk, Office of the Political Officer, Balipara.
*27. The Lakhimpur Frontier Tract ...	Senior Extra Assistant Commissioner, Dibrugarh.
*28. The North Cachar Hills ...	The Subdivisional Officer.

*Note.—Excluded areas. The only constituencies which fall in these areas are the European and Indian Commerce and Industry constituencies.

Note II.—If more convenient the name of village or town of residence may be written as a heading instead of as a column in the roll.

II. The roll for the European constituency shall be in the following form :—

Assam Legislative Assembly

EUROPEAN CONSTITUENCY

.....District.

.....Subdivision.

Serial No	Name	Address	Age	Qualification	Remarks

III. The electoral roll for the European and Indian Planting constituencies shall be in the following form :—

Assam Legislative Assembly

European Planting Constituency

Indian Planting ^(Assam Valley)
(Surma Valley) Constituency.

.....District.

.....Subdivision.

Serial No.	Name	Address	Age	Qualification	Remarks

IV. The electoral roll for the Commerce and Industry constituencies shall be in the following form:—

Assam Legislative Assembly

(a) European Commerce and Industry Constituency.

.....District.

.....Subdivision.

Serial No.	Name and address of qualified Company, Firm or individual	Qualification	In case of qualified Companies and Firms name or names of person or persons nominated to vote on their behalf	Remarks

(b) Indian Commerce and Industry Constituency.

.....District.

.....Subdivision.

Serial No.	Name and address of qualified Company, Factory, Firm, Hindu Joint family or individual	Qualification.	In the case of qualified Companies, Firms and Hindu Joint families the name or names of person or persons nominated to vote on their behalf	In the case of Factories the name of owner or of person nominated by owner to vote on his behalf	Remarks

V. (a) The electoral roll for the Garo Hills and the Mikir Hills Backward Areas constituencies shall be in the following forms :—

Assam Legislative Assembly

Garo Hills (North or South)
Mikir Hills Constituency.

.....District.

.....Mauza.

Serial No.	Village	Name of recognised Nokma Headman	Age	Remarks

(b) The electoral roll for the Shillong and the Jowai Backward Areas constituencies shall be in the following form :—

Assam Legislative Assembly

Shillong
Jowai Constituency.

.....Town
.....Sardarship
.....Doloiship
.....Ward or village.

Serial No.	Name of person qualified to be entered in roll	Name of father, mother or husband of qualified person	Age	Qualification	In the case of Khasi (including Phnar) women the name of the male, (if any) nominated by her to be included in the roll in her stead	Nominee's father's or mother's name	Nominee's age	Remarks

VI. The electoral roll for the Women's (Shillong) Constituency shall be in the following form :—

Assam Legislative Assembly

Women's (Shillong) Constituency.

Serial No.	Ward or other unit	Name	Father's, mother's or husband's name	Age	Qualification	Remarks

VII. The electoral roll for the Tea Garden Labour constituencies shall be in the following form :—

Assam Legislative Assembly.

.....Tea Garden Labour Constituency

.....District.

.....Subdivision.

.....Tea Estate.

Serial No.	Name of voter	Father's or husband's name	Caste, tribe or community	Age	Qualification	Remarks

APPENDIX C

ASSAM LEGISLATIVE ASSEMBLY

List of Revising Authorities

Revising Authorities	Areas
1	2
The Deputy Commissioner, Cachar ...	The Cachar District.
The Deputy Commissioner, Sylhet ...	} The Sylhet district.
*The Additional District Magistrate, Sylhet.	
The Deputy Commissioner, Khasi and Jaintia Hills.	The Khasi and Jaintia Hills district.
The Deputy Commissioner, Goalpara	The Goalpara district.
The Deputy Commissioner, Kamrup	The Kamrup district.
The Deputy Commissioner, Darrang	The Darrang district.
The Deputy Commissioner, Nowgong	The Nowgong district.
The Deputy Commissioner, Sibsagar	The Sibsagar district.
The Deputy Commissioner, Lakhimpur	The Lakhimpur district.
The Deputy Commissioner, Garo Hills	The Garo Hills district.
The Deputy Commissioner, Naga Hills	The Naga Hills district.
The Superintendent, Lushai Hills	The Lushai Hills district.
The Political Officer, Sadiya ...	The Sadiya Frontier Tract.
The Political Officer, Balipara ...	The Balipara Frontier Tract.

*NOTE.—The Additional District Magistrate, Sylhet, shall exercise jurisdiction as Revising Authority in such portions of the district as the Deputy Commissioner may from time to time direct,

APPENDIX D

ASSAM LEGISLATIVE ASSEMBLY

List of Returning Officers

Class of constituency	Returning Officer	Other persons authorised to perform the functions of Returning Officer
1. General constituencies in Silchar, Sylhet Sadar, Dhubri [including that part of the Dhubri (South) constituency which falls in the Garo Hills], Gauhati, Tezpur, Jorhat and Dibrugarh subdivisions and in Nowgong district.	Deputy Commissioner of the district.	Additional District Magistrate, Assistant Commissioner, Senior Extra Assistant Commissioner at headquarters of the district; The Deputy Commissioner, Garo Hills, for the part of the Dhubri (South) constituency which falls in the Garo Hills.
2. General constituencies in Hailakandi, Sunamganj, Habiganj, South Sylhet, Karimganj, Goalpara, Barpeta, Mangaldai, Sibsagar, Golaghat and North Lakhimpur subdivisions.	Subdivisional Officer of the subdivision.	Senior Extra Assistant Commissioner of the subdivision.
3.(a) Muhammadan constituencies in Silchar, Sylhet Sadar and Dhubri [including that part of the Dhubri (South) constituency which falls in the Garo Hills] subdivisions and in Darrang, Nowgong, Sibsagar and Lakhimpur districts.	Deputy Commissioner of the district.	Additional District Magistrate, Assistant Commissioner, Senior Extra Assistant Commissioner at headquarters of the district; The Deputy Commissioner, Garo Hills for the part of the Dhubri (South) constituency which falls in the Garo Hills.
(b) Muhammadan constituencies of Kamrup (South) and and Kamrup (North).	Deputy Commissioner of the district.	Assistant Commissioner, Senior Extra Assistant Commissioner at Gauhati.
(c) Muhammadan constituency of Barpeta.	Subdivisional Officer of the subdivision.	Senior Extra Assistant Commissioner of the subdivision.
4. Muhammadan constituencies in Hailakandi, Sunamganj, Habiganj, South Sylhet, Karimganj and Goalpara subdivisions.	Ditto	Ditto ditto.
5. European	Secretary to the Government of Assam, Legislative Department.	Deputy Secretary to the Government of Assam in the Finance and Revenue Departments.
6. Indian Christian	Ditto	*Deputy Commissioners, Under-Secretary to the Government of Assam in the Education and Local Self-Government Departments.

* NOTE.—For so much of the constituency as falls within their districts,

Class of constituency	Returning Officer	Other persons authorised to perform the functions of Returning Officer
7. Women's	Deputy Commissioner, Khasi and Jaintia Hills.	Senior Extra Assistant Commissioner at Shillong.
8.(a) Backward Tribal constituencies of Goalpara, Kamrup and Nowgong.	Deputy Commissioner of the district concerned.	Assistant Commissioner, Senior Extra Assistant Commissioner at headquarters of the district.
(b) Backward Tribal constituency of Lakhimpur and Majuli.	Deputy Commissioner, Lakhimpur.	Deputy Commissioner, Sibsagar, Subdivisional Officer, North Lakhimpur.
9.(a) Backward Area constituencies of Garo Hills (North), Garo Hills (South) and of Shillong.	Deputy Commissioner of the district.	Senior Extra Assistant Commissioner.
(b) Jowai Backward Area constituency.	Subdivisional Officer of the subdivision.	
(c) Mikir Hills Backward Area constituency.	Deputy Commissioner, Nowgong.	Deputy Commissioner, Sibsagar, Subdivisional Officer, Golaghat.
10. Labour (Tea garden) ..	Deputy Commissioner or Subdivisional Officer of the district or subdivision in which the constituency is situated.	Senior Extra Assistant Commissioner at headquarters of district or subdivision in which the constituency is situated.
11. European Planting constituency.	Chief Secretary to the Government of Assam.	Under-Secretary to the Government of Assam in the Departments under the Chief Secretary.
12. Indian Planting—		
(a) Assam Valley	Ditto ..	Ditto.
(b) Surma Valley	Ditto ..	Ditto.
13. Commerce and Industry constituencies (European and Indian).	Registrar of Joint Stock Companies, Assam.	Registrar, Assam Secretariat (Civil).

APPENDIX E

[Part IV—Rule 2(3)]

NOMINATION PAPER

Name of the constituency for which the candidate is nominated	...	...	...	...	_____
Name of candidate	...	...	...	...	_____
Father's or husband's name	...	...	...	...	_____
Age	...	...	...	...	_____
Address	...	...	...	...	_____
*Community (i.e., whether Muhammadan, Indian Christian, European or belonging to General Community, State caste if belonging to a Scheduled Caste)					
...	_____
Constituency on the electoral roll of which the name of the candidate is included.	...	...	...	...	_____
†Number of the candidate in the electoral roll of the constituency in which his name is included	...	...	...	...	_____
Name of proposer	...	...	...	...	_____
†Number of the proposer in the electoral roll of the constituency	...	...	...	...	_____
Signature of the proposer	...	...	...	...	_____
Name of the seconder	...	...	...	...	_____
†Number of the seconder in the electoral roll of the constituency	...	...	...	...	_____
Signature of the seconder	...	...	...	...	_____

Declaration by candidate

I hereby declare that I agree to this nomination.

Date.....

Signature of candidate.

* Not to be entered in case of *special constituencies* or the Women's (Shillong) constituency.

† Where the electoral roll is sub-divided and separate serial numbers are assigned to the electors entered in each subdivision, a description of the subdivision in which the name of the person concerned is entered should also be given here; in the case of Garo Hills (North), Garo Hills (South) and Mikir Hills Backward Areas (Hills) constituencies, this column is not to be filled up for those candidates who claim nomination on the ground of residence only.

I *hereby declare that I have appointed.....
.....to be my election agent.

Signature of candidate.

I †thereby declare that I have selected.....
as the symbol for my election.

Signature of candidate.

Declaration by candidate in the case of tea garden Labour constituency.

I hereby declare that I am a member of the.....
tribe.
caste.

Signature of candidate.

(To be filled in by the Returning Officer or other authorised person.)

Certificate of delivery

Serial No.

This nomination paper was delivered to me at my office, at (date and hour).....

Returning Officer

Certificate of Scrutiny

I have scrutinised the eligibility of the candidate, the proposer and the seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination.

Date..... Returning Officer.

*A candidate may appoint himself as his election agent.

†Not to be filled by candidates for election in the European constituency, the European and Indian Planting and the European and the Indian Commerce and Industry constituencies.

APPENDIX F

[Part IV—Rule 2(6).]

LIST OF SYMBOLS

- | | |
|----------------------------|-----------------------|
| (1) Sheaf of Paddy. | (11) Fishing rod. |
| (2) Boat. | (12) Human hand. |
| (3) Cart. | (13) Bicycle. |
| (4) Flower (Marigold) | (14) Lock and Key. |
| (5) Hut. | (15) Tiger |
| (6) Hurricane lamp. | (16) Kodali. |
| (7) Mango. | (17) Kalsi. |
| (8) Tree. | (18) Axe. |
| (9) Scales (for weighing). | (19) Ink-pot and pen. |
| (10) Umbrella. | (20) Elephant. |
| (21) Buffalo. | |

APPENDIX G

FORM OF BALLOT PAPER

[Part V—Rule 14]

(FRONT)

Counterfoil	Outerfoil
Serial No.....	Serial No.....
Assam Legislative Assembly Election, 19.....	Assam Legislative Assembly Election, 19.....
Constituency.....	Constituency.....
Polling Station No.....	
Voter's No.....	

(On back of outerfoil)

INSTRUCTIONS FOR PLURAL MEMBER GENERAL CONSTITUENCIES IN WHICH MORE THAN ONE MEMBER IS TO BE ELECTED AT FINAL ELECTION

- (1) The number of members for whom you may vote is.....
- (2) You may cast all your votes in favour of one candidate or distribute them as you please. If you cast all your votes for one candidate, place all ballot papers in the ballot box of that candidate. If you distribute your votes, place the ballot papers in the boxes of the candidates for whom you wish to vote.

INSTRUCTIONS FOR OTHER CONSTITUENCIES AND FOR PRIMARY ELECTIONS OF SCHEDULED CASTE CANDIDATES

You have only one vote. Place the ballot paper in the ballot box of the candidate for whom you wish to vote.

APPENDIX H

FORM OF TENDERED BALLOT PAPER

[Part V—Rule 15]

No. of polling Station.....

Constituency.....

.....

Name of voter.....

Number of voter on electoral roll.....

Name of candidate for whom this is tendered.....

Date.....

Signature of the Presiding
Officer.

APPENDIX I

TENDERED VOTES LIST

[Part V—Rule 15]

Name and number of Polling Station.....

Name of Constituency	Name of voter	Number in electoral roll	Signature or thumb impression of voter and his address

APPENDIX J

LIST OF CHALLENGED VOTES

[Part V—Rule 16]

Signature sheet No.....

Number on electoral roll	Name	Signature of voter if literate or thumb impression if illiterate and address	Signature and address of identifier, if any	Order of Presid- ing Officer in each case	Remarks

APPENDIX K
BALLOT PAPER ACCOUNT

[Part V—Rule 21]

	Ordinary ballot papers	Tendered ballot papers
1. Number of ballot papers received by the presiding officer.		
2. Number of unused ballot papers returned ...		
3. Number of spoilt ballot papers ...		
4. Number of tendered ballot papers used ...		
5. Number of ballot papers dealt with under rule 19(2)(ii) of Part V.		
6. Number of ballot papers issued ...		

APPENDIX L

[Part VII—Rule 2]

FORMS OF BALLOT PAPERS FOR THE EUROPEAN CONSTITUENCY, THE EUROPEAN AND INDIAN PLANTING CONSTITUENCIES AND THE EUROPEAN AND INDIAN COMMERCE AND INDUSTRIES CONSTITUENCIES

(1) *Form of ballot paper for the European constituency*

Counterfoil	Outerfoil												
Serial No.....	Serial No.....												
Assam Legislative Assembly Election, 19.....	Assam Legislative Assembly Election, 19.....												
European constituency.	European constituency.												
Name of voter and number on electoral roll.....	<table border="1"> <thead> <tr> <th>Name of candidate</th> <th>Column for cross (x) mark</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	Name of candidate	Column for cross (x) mark										
Name of candidate	Column for cross (x) mark												

INSTRUCTIONS (on back of outerfoil)

1. You can vote for one candidate only.
2. Your vote must be recorded by placing a cross mark (x) on the ballot paper opposite the name of the candidate for whom you wish to vote.
3. You should then place the ballot paper in a closed envelope and return the closed envelope in another closed envelope with a covering letter to the Returning Officer so as to reach him by 5 p.m., on the..... 19..... which is the day previous to the date fixed for the counting of votes. The covering letter should bear your signature and may be in the following form :—

“ I enclose herewith a closed envelope containing my ballot paper for the European constituency of the Assam Legislative Assembly.

Signature.....

Date..... ”

(2) *Form of ballot paper for the European Planting constituency*

Counterfoil.

Serial No.....

Assam Legislative Assembly
Election, 19European Planting constitu-
ency.Name of voter and number
on electoral roll.....

Outerfoil

Serial No.....

Assam Legislative Assembly
Election, 19.....European Planting consti-
tuency.

Name of candidate	Column for cross (x) mark

INSTRUCTIONS (on back of outerfoil).

1. You have*.....votes.
2. You can give all your votes to one candidate or distribute them between the candidates as you think fit. For example, if you have seven votes (the number you will have at a general election) you can give all the seven votes to one candidate (in which case you should put seven cross marks against that candidate's name) or you can give six votes to one candidate and one to another or five votes to one candidate and two to another and so on, or you can give one vote to each of seven candidates.
3. Your votes must be recorded by placing a cross mark (x) or cross marks on the ballot paper opposite the name or names of the candidate or candidates for whom you wish to vote.
4. You should then place the ballot paper in a closed envelope and return the closed envelope in another closed envelope with a covering letter to the Returning Officer so as to reach him by 5 p.m., on the19.....which is the day previous to the date fixed for the counting of votes. The covering letter should bear your signature and may be in the following form:—

"I enclose herewith a closed envelope containing my ballot paper for the European Planting constituency of the Assam Legislative Assembly.

Signature.....

Date.....

* At a general election this figure will be 7 and bye-elections the number of seats to be filled.

(3) Form of ballot paper for the Indian Planting constituencies

Counterfoil.

Serial No.....

Assam Legislative Assembly
Election, 19.....Indian Planting Assam Valley
constituency Surma ValleyName of voter and number
on electoral roll.....

Outerfoil.

Serial No.....

Assam Legislative Assembly
Election, 19Indian Planting Assam Valley
constituency. Surma Valley

Name of candidate	Column for cross (×) mark

INSTRUCTIONS (on back of outerfoil).

1. You can vote for one candidate only.
 2. Your vote must be recorded by placing a cross mark (×) on the ballot paper opposite the name of the candidate for whom you wish to vote.

3. You should then place the ballot paper in a closed envelope and return the closed envelope in another closed envelope with a covering letter to the Returning Officer so as to reach him by 5 p.m. on the19.....which is the day previous to the date fixed for the counting of votes. The covering letter should bear your signature and may be in the following form :—

“ I enclose herewith a closed envelope containing my ballot paper for the Indian Planting Assam Valley constituency of the Assam Legislative Assembly. Surma Valley ”

Signature.....

Date.....”

(4) *Form of ballot paper for the European and Indian Commerce and Industry constituencies.*

Counterfoil.

Serial No.....

Assam Legislative Assembly
Election, 19European
Indian Commerce and Indus-
try constituency.Name of qualified company,
firm, individual, etc

Outerfoil.

Serial No.....

Assam Legislative Assembly
Election, 19.....European
Indian Commerce and Indus-
try constituency.

Name of candidate	Column for cross (x) mark

INSTRUCTIONS (on back of outerfoil).

1. You can vote for one candidate only.
2. Your vote must be recorded by placing a cross mark (x) on the ballot paper opposite the name of the candidate for whom you wish to vote.

3. You should then place the ballot paper in a closed envelope and return the closed envelope in another closed envelope with a covering letter to the Returning Officer so as to reach him by 5 p. m. on19.....which is the day previous to the date fixed for the counting of votes. The covering letter should bear your signature and may be in the following form :—

“I enclose herewith a closed envelope containing my ballot paper for the European Commerce and Industry constituency of the Assam Legislative Assembly and declare that I am the person whose name appears on the electoral roll for that

constituency * (as a nominee for
Company
Firm
Factory
Joint family)”

* To be used by nominees only.

APPENDIX M

FORM OF RETURN OF ELECTION EXPENSES AND OF
DECLARATIONS OF CANDIDATE AND HIS AGENT

[Part VIII—Rule 8(2).]

For the.....constituency

Part I—Receipts.—Including all monies, securities and equivalents of money received from any person (including the candidate himself), club, society or association in respect of any expenses, whether paid or remaining unpaid, incurred on account of or in connection with or incidental to the election. The name of each such person, etc., and the amount received shall be shown separately :—

Date of receipt	Name and description of payer	Amount or value
Total ...		

Part II—Expenses.—Including all payments made by the candidate or by his election agent or by any person on behalf of, or in the interests of, the candidate in respect of any expenses incurred on account of or in connection with or incidental to the election and all unpaid claims in respect of any such expenses of which the candidate or his election agent is aware :—

N. B. (1) Vouchers shall be attached to the return for all items of expenditure amounting to Rs. 5 and over, unless from the nature of the case a receipt cannot be obtained ; the vouchers shall be numbered and arranged in serial order and the number of the voucher entered in the return against the item of expenditure.

(2) Each payment made shall be entered separately, except payments on account of postage and and telegrams for which lump sums may be shown. The name and description of each person paid and the work done or the nature of the goods supplied shall be shewn in respect of each payment.

A.—Under head A shall be shown the personal expenditure of the candidate, incurred or paid by him or by his election agent on his behalf, including all payments for personal services rendered, for hotel bills, for travelling expenses and for the purchase of books or election literature,

Name and description of payee	On what account	Date of payment	Voucher No.	Amount paid	Amount unpaid
Total ...					

B.—Under head B shall be shown expenditure incurred by the candidate or his election agent for the remuneration of agents (including the election agent), clerks or messengers. The name and description of each agent, clerk or messenger employed and the rate of remuneration and the amount paid to each shall be shown separately.

Name and description of payee	On what account	Rate of payment	Date of payment	Voucher No.	Amount paid	Amount remaining unpaid
Total ...						

C.—Under head C shall be shown all other expenditure (including travelling expenses and cost of refreshments provided; incurred by the candidate or his election agent on account of agents (including the election agent), clerks or messengers. The name and description of each agent, clerk or messenger and the amount paid to each shall be shown.

Name and description of payee	On what account	Date of payment	Voucher No.	Amount paid	Amount remaining unpaid
Total ...					

D.—Under head D shall be shown the amounts paid for the hiring or employment of any conveyance for the purpose of taking voters to the poll and travelling expenses of persons (not being agents, clerks or messengers) whether in receipt of salary or not, incurred or paid by the candidate, his election agent or the person so travelling.

Name and description of payee	On what account	Date of payment	Voucher No.	Amount paid	Amount remaining unpaid
Total ...					

E.—Under head E the cost of printing shall be shown

Name and description of payee	On what account	Date of payment, if any	Voucher No.	Amount paid	Amount unpaid
Total ...					

F.—Under head F the cost of advertising shall be shown

Name and description of payee	On what account	Date of payment, if any	Voucher No.	Amount paid	Amount unpaid
Total ...					

G.—Under head G the cost of stationery shall be shown

Name and description of payee	On what account	Date of payment, if any	Voucher No.	Amount paid	Amount unpaid
Total ...					

H.—Under head H the cost of postage and telegrams may be shown in lump sums

Expenditure incurred	Date of payment, if separate payments are shown	Amount paid

I.—Under head I the cost of rooms hired for public meetings or as committee rooms or as an office shall be shown

Name and description of payee	Locality and description of rooms	Date of payment	Voucher No.	Amount paid	Amount unpaid
Total ...					

J.—Under head J shall be included every disputed claim remaining unpaid

Name and description of claimant	Nature and alleged ground of claim	Amount of claim
Total ...		

K.—Under head K all expenditure incurred and payments made by the candidate or by his election agent or by any person on behalf of or in the interests of the candidate in connection with the election and not included in any of the foregoing parts shall be shown.

Name and description of payee	On what account	Date of payment, if any	Voucher No.	Amount paid	Amount unpaid
Total ...					

L.—Under head L the total expenditure incurred under each of the previous heads shall be shown

Head	Paid	Unpaid	Total
A			
B			
C			
D			
E			
F			
G			
H, etc.			
Total ...			

Part III—Declarations by candidates and their agents.—The form of the declarations referred to in sub-paragraphs (2) and (3) of paragraph 5 of Part II of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, shall be as follows :—

Form of Declaration by Election Agent

I, being the appointed election agent for..... a candidate for election in the constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of’s candidature.

Election Agent.

Solemnly affirmed before me.

(*Magistrate.*)

Form of Declaration by Candidate

I, being a candidate for election in the constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, my candidature.

Candidate.

Solemnly affirmed before me.

(*Magistrate.*)

Form of Declaration by a Candidate under sub-paragraph (3) of paragraph 5 of Part II of the Order

I, being a candidate for election in the constituency, do hereby solemnly affirm that the return of election expenses signed by my election agent is (with the exceptions noted below) true to the best of my knowledge and belief, and that (with the exceptions noted below) no expenses of any nature whatsoever other than the expenses therein set forth have to my knowledge or belief been incurred in, or for the purposes of, my candidature.

Particulars of Exceptions

(Sd.)

(*Candidate.*)

Solemnly affirmed before me,

(Sd.)

(*Magistrate.*)

APPENDIX VIII

THE ASSAM LEGISLATIVE COUNCIL ELECTORAL RULES, 1936

Notification No. 1251-Fr., dated the 29th August 1936.—In exercise of the powers conferred by paragraph twenty of the Fifth Schedule to the Government of India Act, 1935, read with paragraph twenty-three of Part I of the Government of India (Provincial Legislative Councils) Order, 1936 and sub-paragraph (5) of paragraph three of Part I and paragraph six of Part III of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, and of all other powers enabling him in that behalf, the Governor of Assam in Council is hereby pleased to make the following rules for the conduct of elections to the Assam Legislative Council.

INTRODUCTORY

- Short title. 1. These rules may be called the Assam Legislative Council Electoral (Governor's) Rules, 1936.
- Commencement. 2. They shall come into force at once.
- Definition of "the Act". 3. "the Act" in these rules means the Government of India, Act, 1935, and "Gazette" means the *Assam Gazette*.
- and "Gazette"
- Assam Legislative Council Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936, to be Part I of these rules. 4. The Assam Legislative Council Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936, shall be deemed to be and to have always been a part of these rules and shall be included and numbered in these rules as Part I thereof.
- Interpretation in case of doubt. 5. If any question arises as to the interpretation of these rules otherwise than in connection with an inquiry into an election petition it shall be referred for the decision of the Governor and the decision of the Governor exercising his individual judgment shall be final.
- Provision for removal of difficulties. 6. If any difficulty arises as to the holding of any election under these rules the Governor exercising his individual judgment may by order do anything not inconsistent with these rules or any provision of the Act or any Order in Council made thereunder or an Act of the Provincial Legislature which appears to him to be necessary for the proper holding of the election.

*PART I

PREPARATION, REVISION AND PUBLICATION OF
ELECTORAL ROLLS

1. These rules may be called the Assam Legislative Council Short title.
Electoral (Preparation, Revision and Publication of Electoral
Rolls) Rules, 1936.

2. They shall come into force at once.

Commence-
ment.

3. If any difficulty arises in the interpretation of these rules it
shall be referred for the decision of the Governor and the decision
of the Governor exercising his individual judgment shall be final.

Interpreta-
tion in case
of doubt.
Notification
directing
preparation
of rolls.

4. The preparation of an electoral roll for a constituency shall
be undertaken whenever the Governor exercising his individual
judgment by a notification in the *Assam Gazette* so directs.

5. The electoral rolls for the constituencies or such portions
of constituencies as fall within the areas specified in the first
column of Appendix A shall be prepared by the Registering
authority specified in the second column thereof.

Registering
authorities.

6. The electoral roll for all constituencies shall be prepared in
English and in the following form:—

Language
and form of
electoral
rolls.

Assam Legislative Council

	<u>General</u>
.....	<u>Muhammadan Constituency</u>
	<u>European</u>
.....	<u>District</u>
.....	<u>Subdivision</u>
.....	<u>† Thana</u>
.....	<u>† Mauza</u>

Serial No.	Name	‡Address	Age	Qualifica- tion	Remarks

* The rules in Part I which were first published separately under Notifica-
tion No. 521-Fr., dated the 23rd May 1936, are now included and numbered in
the Assam Legislative Council Electoral (Governor's) Rules by virtue of rule 4 of
the Introductory chapter.

† Only where necessary, e.g., where a thana in one subdivision forms part
of a constituency in another subdivision.

‡ Name of Post Office should be included in the address.

Special provision regarding names of women. 7. Where for social or religious reasons there is an objection to the entry of the actual name of a woman in any electoral roll such woman may be entered in the roll as "the wife of A. B (husband's name)" or, if she is unmarried, as "the daughter of A. B (father's name)".

Non-British subjects. *Part I, paragraph 6—Provincial Legislative Councils Order in Council.* 8. A person who would be so qualified if he were a British subject shall, even though he is not a British subject, be qualified to be included in the electoral roll for any constituency in the Assam Legislative Council if he is the Ruler or subject of the Manipur State or of any Khasi State or belongs to the community known as "Marwari" or is the subject of any State in India who is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular military forces or the Assam Rifles or a retired, pensioned or discharged officer or member of the Indian Police Forces.

Provision to prevent double enrolment in territorial constituencies. *Part I, paragraph 11 (2)—Provincial Legislative Councils Order in Council.* 9. (a) No person shall be included in the electoral roll for more than one territorial constituency and if any person finds that he is qualified to be included or has been included in the electoral roll of more than one territorial constituency he may elect the constituency in which he desires to vote by application in writing to the Registering or Revising authority concerned, and if his name appears in the roll of any other territorial constituency other than that in which he elects to vote, it shall be struck off.

(b) If the name of any persons is found, otherwise than as a result of an application made under sub-rule (a) of this rule, to have been included in the electoral roll of more than one territorial constituency he shall be informed of the fact, and unless within 7 days of the receipt of the notice to this effect he elects the territorial constituency in which he wishes to vote, his name shall be struck off the rolls of all the territorial constituencies in which it appears.

Provision where a man has more than one wife. *Part I, paragraph 14—Provincial Legislative Councils Order in Council.* 10. If a man has more than one wife who would, except for the provisions of sub-paragraph (b) of paragraph 14 of Part I of the Government of India (Provincial Legislative Councils) Order, 1936, be entitled to be included in the electoral roll in respect of her husband's qualifications, the wife to be selected under the provisions of the said sub-paragraph (b) shall be the wife to whom he was first married.

Provision for certification of income-tax of partner's share in firm's income. *Part I, paragraph 2(3)—Provincial Legislative Councils Order in Council.* 11. A person who is a partner in a firm assessed to income-tax in any financial year may apply to the Income-tax Officer who made the assessment on the firm or to his successor in office for a certificate as to the amount to be included in such person's total income in respect of his share of the firm's income on which income-tax has been so assessed and the Income-tax Officer shall, if he is satisfied that the applicant's claim is correct, issue to him a certificate in the following form:—

"This is to certify that is a partner in the firm of The firm was assessed to income-tax in the year and his share of the firm's income on which income-tax was assessed was not less than Rs....."

12. On or before such date as may be notified in the Gazette by the Governor exercising his individual judgment the electoral roll shall be published by the Registering authority who prepared it as follows :—

Publication
of electoral
roll.

So much of the roll as relates to each district and subdivision, shall be published at the office of the Deputy Commissioner and the office of the Subdivisional Officer respectively. A complete copy of the roll shall also be published in all cases at the office of the Returning Officer.

In the case of the European constituency the portion of the roll relating to each district and subdivision shall also, so far as is practicable, be published at the various European Clubs in the district and subdivision.

Nothing in this rule shall, however, be deemed to prevent the Registering authority of any constituency from publishing the electoral roll of that constituency in such other place or places as he considers desirable for the purpose of giving wider publicity to such publication.

13. The publication of the electoral roll shall not be invalidated by reasons that the roll, or any part thereof, was not published at every place specified in the preceding rule or that the roll or any part thereof was not published at every place on or before the notified date.

Savings.

14. (a) Any person whose name has not been entered in an electoral roll may within twenty-one days from the date of publication of the roll submit to the Revising authority a written claim to be so entered. Every person shall submit a separate written claim.

Claims and
objections.

(b) Any person whose name is entered in the electoral roll of a particular constituency may within twenty-one days from the date of preliminary publication of the roll submit to the Revising authority a written objection to any entry on the electoral roll of such constituency.

15. All claims and objections shall be published at the headquarters of the district and subdivision, and in the village in which the residence of the person claiming entry, or the person against whose entry an objection is lodged, is situated and a notice with a copy of the objection shall also be served on each person against whom an objection is lodged. The notices so published and served shall state the date on which the claims and objections will be heard, which shall not be less than 10 days after the date of publication and service of notice, and the place where the claims and objections will be heard.

Publication
of claims and
objections.

16. Every notice issued by the Revising authority shall, if possible, be served personally. Where, for any reason, personal service is not practicable the notice shall be served by registered post or by affixing a copy thereof at the residence within the constituency of the person concerned. A certificate of service, either personal or otherwise, shall be deemed to be conclusive proof of the fact of such service.

Service of
notice.

Revising authorities.

17. The officer specified in the first column of Appendix B shall be the Revising authority for such constituencies or such portions of constituencies of the Assam Legislative Council as fall within the areas noted against his name in the second column of the same Appendix.

Inquiry into claims and objections by the Revising authority.

18. The Revising authority shall hold a summary enquiry into each claim or objection preferred and, after hearing the evidence, if any, adduced on behalf of the parties and after such further enquiry as may seem necessary, shall pass orders on the claim or objection and such order shall be final.

Republication of electoral rolls.

19. When the electoral roll has been amended in accordance with the orders of the Revising authority it shall be republished in the manner provided in rule 12 and shall come into force from the date of such republication and shall remain in force for a period of 3 years from the date of such republication, after which a fresh roll shall be prepared :

Provided that the Governor exercising his individual judgment may, by a notification in the *Assam Gazette*, direct the preparation in accordance with these rules of a fresh roll at any time before the expiration of the said period of 3 years.

Sale of rolls to public.

20. Copies of rolls shall be available for sale to the public at such prices as may be fixed from time to time.

Applicability of electoral roll after it has ceased to have force in certain cases.

21. If a constituency is called upon to elect a member or members after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purpose of that election continue to operate as the electoral roll of that constituency.

Minor corrections in and additions to rolls in force.

22. (a) Any person may apply to the Revising authority for the correction of an existing entry in the electoral roll for the time being in force and if the Revising authority is satisfied, after making such enquiry as he considers necessary, that the entry relating to the applicant is erroneous or defective in any particular he may correct the entry or cause it to be corrected accordingly.

(b) If the Revising authority is satisfied, after making such enquiry as may be necessary, that an electoral roll for the time being in force is defective owing to a printing error or contains any printing mistake or printing omission he may order such roll to be corrected and the roll shall be corrected in accordance with his order.

(c) Any person who intends to stand as a candidate for election and whose name does not appear on the roll of a constituency for the time being in force may, on payment of a fee of Rs. 10 (which shall in no circumstances be refunded), apply to the Revising authority to have his name included in such roll. Every such application shall be accompanied by a declaration signed by the applicant stating that he intends to stand as a candidate for election to the Assam Legislative Council. On receipt of such application the Revising authority shall, if he is satisfied that there are good grounds for believing the applicant to be qualified for inclusion in the roll, follow the procedure prescribed by rules 15 and 18.

23. Every correction in, or addition to, an electoral roll shall be attested by the signature of a Gazetted Officer of Government. Corrections in roll to be attested.

24. Notwithstanding anything hereinbefore contained any person may apply to the Revising authority of the constituency concerned for the amendment of any electoral roll for the time being in force. The Revising authority shall forward such application to the Governor and the Governor exercising his individual judgment may, at any time, after any such application has been made in respect of any electoral roll, by notification in the Assam Gazette, direct the preparation of a list of amendments thereto and the provisions of these rules shall apply in the case of every such list in like manner as they apply in the case of electoral rolls. List of amendments to electoral rolls.

25. If any difficulty arises as to the preparation, revision or publication of any electoral roll or of any list of amendments to any such roll, the Governor exercising his individual judgment may, by order, do anything which appears to him to be necessary for the due preparation, revision or publication of such roll or list of amendments. Provision for removal of difficulties.

PART II

RETURNING OFFICERS

1. The Returning Officers for the constituencies mentioned in the first column of Appendix C shall be the persons respectively specified in the corresponding entry in the second column thereof.

2. The persons specified in the third column of the said Appendix may, subject to the control of the Returning Officer, perform all or any of the functions of the Returning Officer in the constituencies respectively specified in the corresponding entry in the first column thereof:

Provided that no such person shall perform any of the functions of a Returning Officer which relate to the acceptance or scrutiny of a nomination paper or to the counting of votes, unless the Returning Officer is unavoidably prevented from performing the same, in which case the said function may be performed in any constituency by the person specified in the corresponding entry in the third column of the Appendix.

3. Any reference to a Returning Officer in these rules shall, unless contrary intention appears, be deemed to include any person when performing any duty or function which he is authorised to perform under rule 2 of this Part.

4. Subject to the provisions of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, relating to the decision of doubts and disputes as to the validity of an election in so far as they are applicable, all decisions given by Returning Officers under the powers conferred on them by these rules shall be final.

PART III

NOMINATIONS, DEPOSITS AND GENERAL PROCEDURE AFTER NOMINATIONS

Nomination of candidates. 1. (1) No person shall be nominated as a candidate for election to fill a seat in any constituency if he is not qualified to be chosen to fill that seat under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature.

(2) The Governor acting in his discretion shall appoint for each constituency :—

(a) a date, not later than the fourteenth day after the date of the notification calling upon the constituency to elect a member, for the nomination of candidates and for the scrutiny of nominations ;

(b) a further date or dates on which a poll shall, if necessary, be taken ;

and the dates so fixed shall be notified in the constituency in such manner as the Governor thinks fit.

(3) On or before the date so appointed for the nomination of candidates, each candidate shall, either in person or by his proposer or seconder, between the hours of eleven o'clock in the forenoon and one o'clock in the afternoon deliver to the Returning Officer, or to such other person as may be authorised in this behalf by the Governor, a nomination paper completed in the form specified in Appendix D and subscribed by the candidate himself as assenting to the nomination and by two persons referred to in sub-rule (4) as proposer and seconder.

(4) Any person whose name is included in the electoral roll of the constituency and who is not subject to any disabilities for being so included under the Act or any order in Council or rule made thereunder or an Act of the Provincial Legislature may subscribe as proposer or seconder one nomination paper only.

(5) Every nomination paper delivered under sub-rule (3) shall contain a declaration in writing subscribed by the candidate that the candidate has appointed or does thereby appoint as his election agent for the election either himself or some one other person who is not disqualified under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature for the appointment and who shall be named in the declaration ; and no candidate shall be deemed to be duly nominated unless such declaration is made on the nomination paper :

Provided that, notwithstanding that more than one nomination paper is presented by or on behalf of a candidate, only one such declaration by the candidate shall be necessary.

(6) Any nomination paper which is not received before one o'clock in the afternoon on the date fixed by the Governor for the nomination of candidates shall be rejected.

(7) The Returning Officer or other person authorised shall, on receiving a nomination paper under sub-rule (3), sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him, and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of all the nominations received containing descriptions, similar to those contained in the nomination papers, both of the candidates and of the persons who have subscribed the nomination paper as proposers and seconders.

(8) Any candidate may withdraw his candidature by notice* in writing subscribed by him and delivered by him either in person or by his proposer or seconder to the Returning Officer at any time before the Returning Officer has completed the preparation of the list of valid nominations under rule 3(4) of this Part. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

(9) The Returning Officer or other person authorised shall, on receiving a notice of withdrawal under sub-rule (8) as soon as may be, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

2. (1) At the time of delivery of a nomination paper under sub-rule (3) of rule 1 of this Part, each candidate shall either (a) submit with the nomination paper a Government treasury receipt (chalan) showing that a deposit of five hundred rupees has been made by him in the treasury, or (b) deposit with the Returning Officer the sum of five hundred rupees in cash or in Government Promissory notes of equal value at the market rate of the day ; and no candidate shall be deemed to be duly nominated unless such deposit has been made.

Deposit on
nomination
and forfei-
ture or
return of
such deposit.

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made withdraws his candidature in the manner and within the time specified in sub-rule (8) of rule 1 of this Part, or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made ; and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made.

(3) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is not elected and the number of votes polled by him does not exceed one-eighth of the total number of votes polled, the deposit shall be forfeited to the Government.

(4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot papers, counted.

* Note.—A telegram addressed to the Returning Officer purporting to come from a candidate giving notice of the withdrawal of his candidature may be provisionally accepted as a notice in writing. Unless, however, such telegram is followed up as soon as possible by a notice of withdrawal subscribed by the candidate himself the telegram should be disregarded and the candidate should be deemed not to have withdrawn his candidature.

(5) The deposit made in respect of a candidate who is not elected shall, if it is not forfeited under sub-rule (3), be returned to the candidate or to the person who has made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the election in the Gazette ; and the deposit made in respect of a candidate who is elected shall be returned as soon as may be after the publication of the result of the election in the Gazette.

Provided that, if a candidate is duly nominated at an election in more than one constituency, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the Government.

(6) Every application for the return of a deposit made under this rule shall be supported—

- (a) if the candidate had been only nominated in more than one constituency, by a declaration of the constituencies in which he was nominated and a further declaration to the effect that he has neither claimed or obtained, previously, a refund of any of the deposits made by him ; and
- (b) if the candidate had been duly nominated only in one constituency by a declaration to the effect that he was not nominated in any other constituency and that he has neither claimed nor obtained a refund of the deposit previously.

Scrutiny of
nominations.

3. (1) After one p.m. on the date fixed by the Governor for the nomination of candidates under sub-rule (2) of rule 1 of this Part the candidates, their election agents, one proposer and one seconder of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such place as the Returning Officer may appoint, and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in rule 1 of this Part.

(2) (a) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds :—

- (i) that the candidate is not qualified to be chosen to fill the seat under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature ;
- (ii) that a proposer or seconder is disqualified from subscribing a nomination paper under sub-rule (4) of rule 1 of this part ;

- (iii) that there has been a substantial failure to comply with any of the provisions of rule 1 or rule 2 of this Part ;
- (iv) that the candidate or any proposer or seconder is not substantially identical with the person whose number or name on the electoral roll is given in the nomination paper as the number or name of such candidate, proposer or seconder ;
- (v) that the signature of the candidate or any proposer or seconder is not genuine or has been obtained by fraud.

The Returning Officer shall not, however, refuse any nomination paper on the ground of a slight technical defect such as the wrong spelling of a name, and shall accept any nomination paper in which he is satisfied that the candidate is qualified to be chosen to fill the seat and has been proposed and seconded by persons who are qualified to do so.

(b) For the purposes of this rule :—

- (i) the production of a certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of any voter named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate is disqualified under the Act or any Order in Council or rule made thereunder or an Act of the Provincial Legislature or that the proposer or seconder, as the case may be, is disqualified under sub-rule (4) of rule 1 of this Part,
- (ii) where a person has subscribed, whether as proposer or seconder, more than one nomination paper, that paper which was first received, shall be deemed to be valid.

(c) Nothing contained in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v) of clause (a) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(3) (a) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(b) The scrutiny shall be completed if possible, on the day fixed for the nomination of candidates under clause (a) of sub-rule (2) of rule 1 of this Part but if it cannot be completed on that day it may be adjourned to the following day or, if the following day is a holiday, to the next open day.

(4) On completion of the scrutiny of nominations, the Returning Officer shall forthwith prepare a list of valid nominations and cause it to be affixed in some conspicuous place in his office.

4. If a candidate who has been duly nominated under these rules dies after the date fixed for the scrutiny of nominations and before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Governor, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election :

Provided that no fresh nomination shall be necessary in the case of a candidate whose nomination had been valid at the time of the countermanding of the poll.

Procedure
after nomi-
nations.

5. (1) If the number of candidates in a constituency who are duly nominated and who have not withdrawn their candidature in the manner and within the time specified in sub-rule (8) of rule 1 of this Part exceeds one, the Returning Officer shall forthwith publish in the Gazette and in such other manner as the Governor may direct, and in such places in the constituency as the the Returning Officer may consider necessary, the names of the candidates as given in the nomination papers in alphabetical order and a poll shall be taken.

(2) If there is only one such candidate the Returning Officer shall declare such candidate to be duly elected to fill the seat.

(3) If there is no such candidate for the seat the Governor exercising his individual judgment shall, by a notification in the Gazette, call upon the constituency to elect a person to fill the seat within such time as may be specified in the notification :

Provided that where the constituency, having already been called upon under this sub-rule, has failed to elect a person to fill the seat, the Governor exercising his individual judgment shall not be bound again to call upon the constituency to elect a person until such time, if any, as he thinks fit.

(4) At elections in every constituency where a poll is taken votes shall be given by ballot in the manner provided therefor in these rules and no votes shall be received by proxy.

(5) Votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate and, either his election agent or one representative of each candidate authorised in writing by the candidate, shall have a right to be present at the time of counting.

(6) When the counting of the votes has been completed the Returning Officer shall forthwith declare which candidate has been elected.

(7) The Returning Officer shall without delay report the result of every election in a constituency of which he is the Returning Officer to the Secretary to the Government of Assam in the Legislative Department and to the Secretary to the Assam Legislative Council and to such other officers as the Governor may direct, and the name of the candidate elected shall be published in the Gazette under the signature of the Returning Officer.

PART IV

VOTING AND COUNTING OF VOTES

1. Not later than fourteen days before the date fixed for the closure of the poll, the Returning Officer shall send by registered post to each elector a ballot paper bearing the official mark in the form given in Appendix E, together with an intimation of the date appointed for the counting of votes, and shall enter on the counterfoil of each ballot paper the name of the elector to whom the ballot paper is sent. The ballot paper, together with the above particulars, shall be sent to the address of the elector as shown in the electoral roll, unless the elector has, since the publication of the roll, satisfied the Returning Officer that he has changed his address, in which case the ballot paper shall be sent to the new address. Returning Officer to send ballot papers by post.

2. (1) An elector may send his ballot paper to the Returning Officer after recording his vote thereon in accordance with the instructions on the ballot paper: Provided that ballot papers which are not received by the Returning Officer before 5 p.m., on the day preceding the date fixed for the counting of votes shall be rejected. Ballot paper to be returned after recording vote thereon.

(2) If an elector is unable owing to illiteracy or blindness or physical incapacity or any other cause to record his vote and despatch his ballot paper in the manner prescribed in sub-rule (1) of this rule it shall be competent for him to record his vote by the hand of any Magistrate. Such Magistrate shall despatch the ballot paper in a closed envelope to the Returning Officer with a covering letter stating that he is satisfied that the elector is unable to record his vote unaided, that he was requested by the elector to mark the ballot paper and that the said paper was marked by him in the presence of the elector and in accordance with the elector's directions.

3. When a ballot paper sent by post is, for any reason, returned undelivered, the Returning Officer may reissue it by registered post or himself hand it over to the elector but duplicate ballot paper shall not be issued except in cases where an elector has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as such. In such cases the elector may, on delivering it personally to the Returning Officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt paper and the latter shall with its counterfoil be marked as cancelled by the Returning Officer. Provision for spoilt papers.

4. (1) On receipt of a ballot paper from an elector the Returning Officer shall make a mark against the entry of the elector's name in the electoral roll to denote that the elector has returned a ballot paper, and shall deposit the closed envelope containing the ballot paper in a securely locked ballot box. Procedure on return of ballot papers.

(2) If a ballot paper is received back from an elector duly marked and with a covering letter signed by the elector but the ballot paper is not enclosed in a closed envelope in accordance with the instructions, the Returning Officer shall himself place such ballot paper in a closed envelope and deposit it in the ballot box. If, however, a closed envelope purporting to contain a ballot paper is received without a covering letter and the Returning Officer is unable to ascertain (without actually opening the closed envelope and comparing the serial number with the electoral roll) from whom the ballot paper has been received, such envelope shall not be placed in the ballot box but shall be set aside in a separate packet and the ballot paper (if any) contained therein shall be rejected at the time of the counting of the votes.

Tendered
ballot papers. 5. If a ballot paper is received purporting to come from a particular elector named on the electoral roll after another ballot paper has been received purporting to come from such elector, the closed envelope shall be endorsed by the Returning Officer with the name of the elector and his number on the electoral roll and set aside in a separate packet. The ballot paper contained in such closed envelope shall be treated as a tendered ballot paper and shall not be counted by the Returning Officer at the time of the counting of the votes.

Procedure
after close of
poll. 6. As soon as practicable after the close of the poll the Returning Officer shall make up into separate packets and seal with his own seal—

- (1) the ballot box unopened but with the key attached ;
- (2) the unused ballot papers ;
- (3) the tendered ballot papers ;
- (4) the marked copy of the electoral roll ;
- (5) the counterfoils of the ballot papers ; and
- (6) the spoilt ballot papers cancelled under rule 3 of this Part.

Ballot paper
account. 7. The Returning Officer shall also prepare a statement (ballot paper account) showing the total number of ballot papers provided by him and accounting for them under the heads of "unused ballot papers," "ballot papers in the ballot box", "tendered ballot papers", "ballot papers not returned", and "spoilt papers".

Procedure
to be follow-
ed in count-
ing the votes. 8. (1) The Governor acting in his discretion shall appoint a date, which shall be the day following the date fixed for the closure of poll, and a time and place for the counting of votes, and the Returning Officer shall give notice thereof in writing to the candidates and their election agents.

(2) No person shall be allowed to be present at the counting of the votes except the Returning Officer and such persons as he may appoint to assist him in counting the votes and such other persons as have a right to be present under sub-rule (5) to rule 5 of Part III.

(3) No person shall be appointed to assist in counting the votes who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

(4) On the day and at the time and place appointed the Returning Officer shall first of all read the provisions of *section 14 of the Indian Election Offences and Inquiries Act, 1920, to such persons as may be present and shall then—

- (a) open the ballot box and separate or cause to be separated the ballot papers which he deems valid from those which he rejects endorsing on the latter the word "rejected" and the ground of rejection ;
- (b) count, or cause to be counted, the votes given to each candidate and, subject to the provisions of paragraph 19 of Part I of the Government of India (Provincial Legislative Councils) Order, 1936, declare the candidate with the largest number of valid votes to be elected ;
- (c) upon the completion of the counting verify the ballot paper account prepared under rule 7 of this Part by comparing it with the number of ballot papers recorded by him as aforesaid, the unused ballot papers in his possession and the number of spoil and tendered ballot papers. He shall then seal up in separate packets the counted and rejected ballot papers, but shall not open the sealed packets of the tendered votes, the marked copies of the roll and the counterfoils, and shall reseal each packet which has been opened by him and shall record on each packet a description of its contents and the date of the election to which it refers ;
- (d) prepare and certify a return setting forth—
 - (1) the result of the verification referred to in the preceding clause,
 - (2) the names of the candidates for whom valid votes were given,
 - (3) the number of valid votes given for each candidate,
 - (4) the name of the candidate declared elected,
 - (5) the number of votes declared invalid, and
 - (6) the number of tendered votes given ;
- (e) permit any candidate or his election agent or representative duly authorised in writing to take a copy of, or an extract from, such return.

* This section runs as follows :—

- 14 (1) Every officer, clerk, agent or other person who performs any duties in connection with recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.
- (2) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months or with fine, or with both.

9. (1) Any ballot paper which is not duly marked, or on which more than one mark is placed against any candidate's name, or on which votes are given to more than one candidate, or on which a remark is placed in such a manner as to make it doubtful to which candidate it has been given, or on which any mark is made by which the voter may be identified, shall be invalid and shall be rejected.

(2) The decision of the Returning Officer as to the validity of a ballot paper shall be final, subject only to reversal on an election petition claiming the seat.

10. (1) The Returning Officer, after reporting the result of the election under sub-rule (7) of rule 5 of Part III, shall forward the return mentioned in clause (d) of sub-rule (2) of rule 8 of this Part to the Secretary to the Government of Assam in the Legislative Department.

(2) Copies of returns by the Returning Officer shall be furnished by the Secretary to the Government of Assam in the Legislative Department on payment of a fee of Rs. 2 for each copy.

11. No election shall be invalidated by reason that an elector has not received his ballot paper provided that a ballot paper has been issued to him in accordance with these rules.

PART V

ELECTION AGENTS AND EXPENSES

1. The books of account to be kept by an election agent under paragraph 4 of Part II of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, shall contain a statement of all payments made by the candidate or by his election agent or by any persons on behalf of the candidate or in his interests for expenses incurred on account of, or in respect of, the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

2. (1) The return of election expenses under paragraph 5 of Part II of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, shall be lodged with the Returning Officer within thirty-five days from the date of the publication of the result of the election in the Gazette.

(2) The return of election expenses shall be in the form given in Appendix F and the declarations referred to in subparagraphs (2) and (3) of paragraph 5 of Part II of the Order shall be in the forms contained in the said Appendix.

(3) If a candidate or election agent who is required to sign the return of election expenses and declarations referred to in this rule is unable to write his name, "sign" in relation to such person means authenticate by making a mark.

(4) Every such return shall also bear non-judicial stamps of the value of two rupees without which the Returning Officer shall not accept the return.

(5) The Returning Officer shall report to the Governor within 15 days from the date by which the return of election expenses of candidates ought to have been lodged with him, whether or not the candidates and their election agents have complied with the requirements of this rule

(6) On receipt of a report under sub-rule (5), the Governor exercising his individual judgment shall decide whether the qualification under paragraph (f) of sub-section (1) of section 69 of the Act has, in fact, been incurred in any election to fill a seat, with the result that the seat shall thus become vacant.

3. When any return and declarations made in respect thereof have been lodged with the Returning Officer, the Returning Officer shall, as soon as may be, cause a notice of the date on which the return and declarations in question have been lodged, and of the time and place at which they can be expected, to be posted in some conspicuous place in his office and to be published in the Gazette, and any person shall, on payment of a fee of one rupee, be entitled to inspect any such return or declaration and, on payment of such fee as the Governor may direct, to obtain a copy or copies thereof or of any part thereof.

4. The Governor shall cause to be prepared in such manner, and maintained for such time, as he may direct, a record showing the names of all candidates at every election under these rules and the name of the election agent of each such candidate and the date on which the return of election expenses of each candidate has been lodged with the Returning Officer.

5. The following shall be the maximum scale of election expenses (including the personal expenses of a candidate) which may be incurred by a candidate for election in a constituency of the Assam Legislative Council :—

Class of constituency	Maximum limit of expenditure
	Rs.
General, Muhammadan and European Constituencies...	2,000

6. The maximum numbers of persons who may be employed for payment by a candidate in connection with an election and their description shall be as shown hereunder :

Description of persons	Maximum numbers of persons who may be employed for payment	Maximum numbers and description of persons to be employed for payment in connection with elections.
Election Agent	One.	
Sub-Agents	Two.	
Clerks and Messengers ...	For the Election Agent one clerk and one messenger.	
	For each Sub-Agent one clerk and one messenger.	

PART VI

THE DECISION OF DOUBTS AND DISPUTES AS TO THE
VALIDITY OF AN ELECTION

Definitions. 1. In this Part, unless there is anything repugnant in the subject or context—

- (a) "the Order" means the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936 ;
- (b) "candidate," "electoral right," "returned candidate" and "corrupt practice" have the same meanings as in paragraph 1 of Part III of the Order ;
- (c) "Commissioners" means Commissioners appointed under paragraph 4 of Part III of the Order for the trial of an election petition and "President" means the President of a Commission appointed under the said paragraph ; and
- (d) "Sign" in relation to a person who is unable to write his name means authenticate by making a mark.

Presentation of the petition. 2. (1) An election petition against any returned candidate may be presented to the Governor under Part III of the Order—

- (a) by any candidate or elector within fourteen days from the date on which the notice of the return of election expenses of the returned candidate and of the declarations referred to in paragraph 5 of Part II of the Order is published in the Gazette ; or
- (b) within thirty days from that date by an officer referred to in paragraph 3 of Part III of the Order.

(2) An election petition shall be deemed to have been presented to the Governor when it is delivered to the Governor or to any officer appointed by him in this behalf—

- (a) by the person making the petition ; or
- (b) by the person authorised in writing in this behalf by the person making the petition ; or
- (c) by registered post.

(3) When the last day of the period for the presentation of an election petition under this rule is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the Governor as a day to be observed as a holiday in Government offices, the petition shall be considered as having been received in due time if it is presented on the next succeeding day which is neither such a public holiday nor a day so notified.

(4) For the purposes of clause (a) of sub-rule (1) the date on which the return of the election expenses and the declarations referred to in paragraph 5 of Part II of the Order are received by the Returning Officer shall, in the case of candidate who has made such return and declarations in the manner provided in sub-paragraph (3) of that paragraph, be deemed to be the date on which the declaration of the candidate under that sub-paragraph is received.

3. (1) The petition shall contain a statement in concise form of the material facts on which the petitioner relies and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings. Contents of the petition.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

(3) The Commissioners may, upon such terms as to costs and otherwise as they may direct, at any time, allow the particulars included in the said list to be amended or order such further and better particulars in regard to any matter referred to therein to be furnished as may, in their opinion, be necessary for the purpose of ensuring a fair and effectual trial of the petition.

4. The petitioner may, if he so desires, in addition to calling in question the election of the returned candidate, claim a declaration that he himself or any other candidate has been duly elected, in which case he shall join as respondents to his petition all other candidates who were nominated at the election. Against whom it may be presented.

5. At the time of presentation of the petition the petitioner shall, except where the petition is presented under clause (b) of sub-rule (1) of rule 2 of this Part, enclose with the petition a Government treasury receipt (chalan) showing that a deposit of one thousand rupees has been made by him in the treasury as security for the costs of the petition. Deposit of security.

6. (1) If the provisions of rule 2, 3 or 5 of this Part are not complied with the Governor exercising his individual judgment shall dismiss the petition. Petition when to be dismissed.

(2) If the petition is not dismissed under sub-rule (1) the President of the Commissioners appointed by the Governor under the provisions of paragraph 4 of Part III of the Order shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the Gazette, and may call on the petitioner to execute a bond in such amount and with such sureties as he may require for the payment of any further costs. At any time within fourteen days after such publication, any other candidate shall be entitled to be joined as a respondent on giving security in a like amount and procuring the execution of a like bond :

Provided that the execution of such a bond by the petitioner shall not be required in any case where the petition has been presented under clause (b) of sub-rule (1) of rule 2 of this Part.

7. Subject to the other provisions of these rules, every election petition shall be inquired into by the Commissioners, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits : Inquiry by Commissioners.

Provided that it shall only be necessary for the Commissioners to make a memorandum of the substance of the evidence of any witness examined by them.

Place of inquiry. 8. The inquiry shall be held at such place as the Governor may appoint :

Provided that the Commissioners may, in their discretion, sit at any other place in the province for any part of the inquiry, and may depute any one of their number to take evidence at any place in the province.

Withdrawal of petition. 9. (1) An election petition may be withdrawn only by leave of the Commissioners or, if an application for withdrawal is made before any Commissioner has been appointed, of the Governor exercising his individual judgment.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made, except with the consent of all the petitioners.

(3) When an application for withdrawal is made to the Commissioners notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Gazette.

(4) No application for withdrawal shall be granted if, in the opinion of the Governor exercising his individual judgment or of the Commissioners, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted—

(a) the petitioner shall, where the application has been made to the Commissioners, be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the Commissioners may think fit ;

(b) notice of the withdrawal shall be published in the Gazette by the Governor or by the Commissioners, as the case may be ; and

(c) any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and, upon compliance with the conditions of rule 5 of this Part as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

(6) When an application for withdrawal is granted by the Commissioners and no person has been substituted as petitioner in place of the party withdrawing under clause (c) of sub-rule (5), the Commissioners shall report the fact to the Governor.

Abatement or substitution on death of petitioner. 10. (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners :

Provided that, where such sole petitioner was an officer empowered under clause (b) of paragraph (3) of Part III of the Order, the proceedings may be continued by any other officer empowered in this behalf by the Governor exercising his individual judgment.

(2) Notice of the abatement of an election petition shall be published in the Gazette by the Commissioners or, if the petition abates before any Commissioner has been appointed, by the Governor.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner, and, upon compliance with the conditions of rule 5 of this Part as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

11. If before the conclusion of the trial of an election petition the respondent dies or gives notice that he does not intend to oppose the petition, the Commissioner shall cause notice of such event to be published in the Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Commissioners may think fit. Abatement or substitution on death of respondent.

12. (1) Where at an inquiry into an election petition any candidate, other than the returned candidate, claims the seat for himself, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election : Recrimination when seat claimed.

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of the publication of the election petition under sub-rule (2) of rule 6 of this Part, given notice of his intention to the Commissioners and made the deposit and procured the execution of the bond referred to in rules 5 and 6 respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and list of particulars required by rule 3 of this Part in the case of an election petition and shall be signed and verified in like manner.

PART VII

MISCELLANEOUS

1. A person who would be so qualified if he were a British subject shall, even though he is not a British subject, be qualified to be chosen to fill a seat in the Assam Legislative Council if he is the Ruler or subject of the Manipur State or of any Khasi State or belongs to the community known as "Marwari" or is the subject of any State in India who is a retired, pensioned or discharged officer, non-commissioned officer, or soldier of His Majesty's regular military forces or the Assam Rifles or a retired, pensioned or discharged officer or member of the Indian Police Forces. Non-British subjects.

2. If a person is elected to more than one seat in the Assam Legislative Council, then unless within seven days from the date of the publication in the Gazette of the name of that person as having been so elected or, where such publication has been made on different dates, unless within seven days from the latest of such dates, such person resigns all but one of the seats, all the seats shall become vacant. Seats in the Council when to become vacant in case of election of the same person to more than one seat.

If he resigns all but one seat, the remaining seat or seats shall become vacant.

Casual vacancies.

3. (1) When, before the expiration of the term of office of a member elected under these rules, the seat of an elected member becomes vacant or the election of a member is declared void, the Governor exercising his individual judgment shall, by notification in the Gazette, call upon the constituency to elect a person, to fill the vacancy within such time as may be specified in the notification and these rules shall apply, so far as may be, to the procedure for the election of a member to fill such vacancy.

(2) If a vacancy occurs in the case of a nominated member, the Governor in his discretion shall nominate to the vacancy a person who is not disqualified under sub-paragraph (4) of paragraph 16 of Part I of the Government of India (Provincial Legislative Councils) Order, 1936.

Notification for the election of persons to fill seats in the Council.

4. (1) For the purpose of constituting the Legislative Council of the Province under the Act in due time, the Governor exercising his individual judgment shall, at such time as he may think fit, by a notification in the Gazette, call upon every territorial constituency to elect in accordance with these rules a member within such time as may be specified in the notification.

(2) For the purpose of filling the seats of members retiring on the expiration of their respective terms of office in every third year after the constitution of the Legislative Council of the Province by virtue of an order made under paragraph eighteen of the Fifth Schedule to the Act, the Governor exercising his individual judgment shall, by a notification in the Gazette, call upon each of the territorial constituencies concerned to elect in accordance with these rules a member within such time as may be specified in the notification :

Provided that if the Governor exercising his individual judgment thinks fit, the said notification may be issued under this sub-rule at any time not being more than four months prior to the date on which the terms of office of the retiring member would expire.

Publication of the result of election and names of persons chosen by the Governor.

5. As soon as may be after the expiration of the time fixed for the election of members under sub-rule (1) or sub-rule (2) of rule 4 or sub-rule (1) of rule 3 as the case may be and the publication of the notification containing the names of persons chosen by the Governor in his discretion under clause (d) of paragraph 14 of the Fifth Schedule to the Act to fill seats in the Legislative Council, the names of the members elected for the various constituencies together with the names of the persons so chosen by the Governor shall be notified in the Gazette.

Prohibition against employment of certain persons as agents.

6. No person who is for the time being disqualified under the provisions of Part IV of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, from being a member of a Provincial Legislature or from voting at elections, shall so long as the disqualification exists, be employed by or on behalf of a candidate as an agent in connection with any election, including a primary election, held under the provisions of these rules.

PART VIII

SAFE CUSTODY, PRESERVATION AND INSPECTION OF
BALLOT PAPERS, ELECTORAL ROLLS AND OTHER
PAPERS RELATING TO ELECTIONS

1. After forwarding to the Secretary to the Government of Assam in the Legislative Department the return referred to in rule 10 of Part IV the Returning Officer shall send to the Inspector-General of Registration the following packets in his possession relating to the election :—

- (1) the counted ballot papers ;
- (2) the rejected ballot papers ;
- (3) the tendered ballot papers ;
- (4) the marked copy of the electoral roll ;
- (5) the counterfoils of the ballot papers ;
- (6) the spoil ballot papers ; and
- (7) the unused ballot papers.

Certain papers to be sent to Inspector-General of Registration for custody.

2. While in the custody of the Inspector-General of Registration the packets of ballot papers, whether counted, rejected or tendered, and of the counterfoils thereof, shall not be opened and their contents shall not be inspected or produced except under the order of a competent Court or of Commissioners appointed to hold an inquiry in respect of an election ; but all other documents relating to the election shall be open to public inspection and the Inspector-General of Registration shall supply copies of, or extracts from, these documents, subject to such conditions and to the payment of such fee, if any, as the Governor may impose.

Certain papers in custody of Inspector-General of Registration no to be opened.

3. The packets in the custody of the Inspector-General of Registration shall be retained for a period of one year and shall thereafter be destroyed, subject to any direction to the contrary made by the Governor exercising his individual judgment or by a competent Court or by Commissioners appointed to hold an inquiry in respect of an election.

Papers in custody of Inspector-General of Registration when to be destroyed.

4. (1) The following rules shall be observed for the custody and preservation of the election papers enumerated below :—

Rule for custody and preservation of other election papers.

- (i) Preliminary electoral rolls.
- (ii) Claims and objections with reference to the preliminary electoral rolls.
- (iii) Final electoral rolls.
- (iv) Nomination papers of candidates.
- (v) Withdrawal of candidature.
- (vi) Appointment letters of agents of candidates.
- (vii) Lists of candidates nominated.
- (viii) Election petitions and proceedings and reports of election Commissioners thereon.
- (ix) Returns of election expenses.

(2) (a) Papers in items (i) and (ii) shall be kept in the general record room of the district to which they relate.

(b) Papers in items (iv), (v), (vi), (vii) and (ix) shall be kept in the record room of the Returning Officer of the constituency concerned.

(c) Papers relating to claims and objections (item ii) decided by Revising authorities shall be kept until the next revision of the electoral roll of the constituency to which they relate and shall then be destroyed. The other papers (excluding those in items (iii), (viii) and (ix)) shall be kept for a period of one year and shall then be destroyed, unless their retention for a longer period is otherwise ordered by competent authority.

(3) Three complete copies of so much of the final electoral rolls as relate to each district shall be deposited in the office of the Deputy Commissioner of the district and three complete copies of the final electoral roll of each constituency shall be deposited in the office of the Returning Officer of the constituency concerned. One complete copy of the electoral roll for each constituency shall also be kept for record in the Legislative Department.

(4) Copies of electoral rolls so deposited shall be preserved permanently and shall before deposit be duly authenticated by the Registering Authority.

(5) Printed copies of electoral rolls in excess of the number required for permanent record shall be available for sale to the public and shall be kept in the offices of the Returning Officers concerned until the next revision of the electoral rolls for the constituencies to which they relate and shall then be destroyed or sold as waste paper.

(6) Election petitions and proceedings and reports of election Commissioners shall be kept in the Legislative Department and shall be destroyed after five years or as soon as the next general election has been completed.

(7) The returns of election expenses lodged with Returning Officers shall be kept by them for five years or until the next general election is completed and shall then be destroyed.

(8) The public shall have a right to inspect the election papers enumerated in this rule and to get attested copies thereof on payment of fees prescribed for copies of records charged under the High Court Rules and Orders (Civil) :

Provided that returns of election expenses shall be available for inspection at the offices of the Returning Officers of the constituencies concerned on payment of a fee of Re.1 each, and copies of such return shall be furnished on payment of a fee of Rs.2 each.

APPENDIX A

ASSAM LEGISLATIVE COUNCIL

List of Registering Authorities

Area	Registering authorities
1	2
1. Silchar Sadr subdivision	} Senior Extra Assistant Commissioner.
2. Sylhet Sadr subdivision	
3. Shillong Sadr subdivision	
4. Dhubri Sadr subdivision	
5. Gauhati Sadr subdivision	
6. Tezpur Sadr subdivision	
7. Nowgong district	
8. Jorhat Sadr subdivision	
9. Dibrugarh Sadr subdivision	
10. Garo Hills	
11. Hailakandi subdivision	} (a) In subdivisions possessing more than one Extra Assistant Commissioner in addition to the Subdivisional Officer—the Senior Extra Assistant Commissioner.
12. Jowai subdivision	
13. Sunamganj subdivision	
14. Habiganj subdivision	
15. South Sylhet subdivision	
16. Karimganj subdivision	} (b) In subdivisions possessing only one Extra Assistant Commissioner in addition to the Subdivisional Officer—the Extra Assistant Commissioner.
17. Goalpara subdivision	
18. Barpeta subdivision	
19. Mangaldai subdivision	
20. Sibsagar subdivision	} (c) In subdivisions possessing no Extra Assistant Commissioner—the Subdivisional Officer.
21. Golaghat subdivision	
22. North Lakhimpur subdivision	

APPENDIX B

ASSAM LEGISLATIVE COUNCIL

List of Revising Authorities

Revising Authorities	Area
1	2
The Deputy Commissioner, Cachar.	The Cachar district.
The Deputy Commissioner, Sylhet.	} The Sylhet district.
*The Additional District Magistrate, Sylhet.	
The Deputy Commissioner, Khasi and Jaintia Hills.	The Khasi and Jaintia Hills district.
The Deputy Commissioner, Goalpara.	The Goalpara district.
The Deputy Commissioner, Kamrup.	The Kamrup district.
The Deputy Commissioner, Darrang.	The Darrang district.
The Deputy Commissioner, Nowgong.	The Nowgong district.
The Deputy Commissioner, Sibsagar.	The Sibsagar district.
The Deputy Commissioner, Lakhimpur.	The Lakhimpur district.
The Deputy Commissioner, Garo Hills.	The Garo Hills district.

*Note:—The additional District Magistrate, Sylhet, shall exercise jurisdiction as Revising authority in such portions of the district as the Deputy Commissioner may from time to time direct.

APPENDIX C

ASSAM LEGISLATIVE COUNCIL

List of Returning Officers

Name of constituency	Returning Officer	Other persons authorised to perform the functions to Returning Officer
1	2	3

I.—GENERAL CONSTITUENCIES

(a) Goalpara, Kamrup, Darrang Nowgong, Sibsagar, Lakhimpur, Cachar, Sylhet (West) and Sylhet (East).	Deputy Commissioner of the district.	Additional District Magistrate, Assistant Commissioner, Senior Extra Assistant Commissioner at headquarters.
(b) The Hills ...	Deputy Commissioner, Khasi and Jaintia Hills.	Assistant Commissioner, Shillong, Senior Extra Assistant Commissioner, Shillong.

II—MUHAMMADAN CONSTITUENCIES

Lower Assam Valley ...	Deputy Commissioner, Kamrup.	Assistant Commissioner, Gauhati, Senior Extra Assistant Commissioner, Gauhati.
Upper Assam Valley ...	Deputy Commissioner, Sibsagar.	Assistant Commissioner, Jorhat, Senior Extra Assistant Commissioner, Jorhat.
Surma Valley (East) ...	Deputy Commissioner, Cachar.	Subdivisional Officer, Karimganj, Senior Extra Assistant Commissioner, Silchar.
Surma Valley (Central)	Deputy Commissioner, Sylhet.	Additional District Magistrate, Sylhet, Senior Extra Assistant Commissioner, Sylhet.
Surma Valley (North-West)	Ditto ...	Ditto ditto.
Surma Valley (South-West)	Ditto ...	Ditto ditto.

III.—EUROPEAN CONSTITUENCIES

Assam Valley ...	Chief Secretary to the Government of Assam.	Under-Secretary to the Government of Assam in the Departments under the Chief Secretary.
Surma Valley ...	Ditto ...	Ditto ditto.

APPENDIX D

[Part III —Rule 1(3)]

NOMINATION PAPER

Name of the constituency for which the candidate is nominated	...	...	...	_____
Name of candidate	...	...	...	_____
Father's name	...	...	...	_____
Age	...	...	...	_____
Address	...	...	...	_____
Community (<i>i.e.</i> , whether Muhammadan, European, or belonging to General Community)	...			_____
Constituency on the electoral roll of which the name of the candidate is included			...	_____
†Number of the candidate in the electoral roll of the constituency in which his name is included				_____
Name of proposer	...	...	...	_____
†Number of the proposer in the electoral roll of the constituency	...	...	...	_____
Signature of the proposer		...	...	_____
Name of the seconder	...	...	...	_____
†Number of the seconder in the electoral roll of the constituency	...	...	...	_____
Signature of the seconder		...	...	_____

Declaration by candidate

I hereby declare that I agree to this nomination.

Date.....

Signature of candidate.

†Where the electoral roll is sub-divided and separate serial numbers are assigned to the electors entered in each district or subdivision, a description of the district or subdivision in which the name of the person concerned is entered should also be given here.

I *hereby declare that I have appointed.....
to be my election agent.

Signature of candidate.

(To be filled in by the Returning Officer or other authorised person.)

Certificate of delivery.

Serial No.

This nomination paper was delivered to me at my office, at (date and hour).....

Returning Officer.

Certificate of Scrutiny

I have scrutinised the eligibility of the candidate, the proposer and seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination.

Returning Officer.

*A candidate may appoint himself as his election agent.

APPENDIX E

FORM OF BALLOT PAPER

[Part IV—Rule 1]

Counterfoil	Outerfoil	
Serial No.....	Serial No.....	
Assam Legislative Council Election, 19.....	Assam Legislative Council Election, 19...	
.....Constituency.	.....Constituency.	
Name of voter and number on electoral roll.....		
	Name of candidate	Column for cross (×) mark

INSTRUCTIONS (ON BACK OF OUTERFOIL).

1. You can vote for one candidate only.
2. Your vote must be recorded by placing a cross mark (×) on the ballot paper opposite the name of the candidate for whom you wish to vote.
3. You should then place the ballot paper in a closed envelope and return the closed envelope in another closed envelope with a covering letter to the Returning Officer so as to reach him by 5 p.m., on the.....
.....19.....which is the day previous to the day fixed for the counting of votes. The covering letter should bear your signature and may be in the following form:—

"I enclose herewith a closed envelope containing my ballot paper for the.....constituency of the Assam Legislative Council.

(Signature).....

(Date)....."

[Part V—Rule 2(2)]

For the.....Constituency.

Part I. Receipts—Including all monies, securities and equivalents of money received from any person (including the candidate himself), club, society or association in respect of any expenses, whether paid or remaining unpaid, incurred on account of or in connection with or incidental to the election. The name of each such person, etc. and the amount received shall be shown separately:—

Date of receipt	Name and description of payer	Amount or value
	Total ...	

Part II. Expenses.—Including all payments made by the candidate or by his election agent or by any person on behalf of, or in the interests of, the candidate in respect of any expenses incurred on account of or in connection with or incidental to the election and all unpaid claims in respect of any such expenses of which the candidate or his election agent is aware:—

N.B.—(1) Vouchers shall be attached to the return for all items of expenditure amounting to Rs.5 and over, unless from the nature of the case a receipt cannot be obtained; the vouchers shall be numbered and arranged in serial order and the number of the vouchers entered in the return against the item of expenditure.

(2) Each payment made shall be entered separately, except payments on account of postage and telegrams for which lump sums may be shown. The name and description of each person paid and the work done or the nature of the goods supplied shall be shown in respect of each payment.

A.—Under head A shall be shown the personal expenditure of the candidate, incurred or paid by him or by his election agent on his behalf, including all payments for personal services rendered, for hotel bills, for travelling expenses and for the purchase of books or election literature.

Name and description of payee	On what account	Date of payment	Voucher No.	Amount paid	Amount unpaid
Total ...					

B.—Under head B shall be shown expenditure incurred by the candidate or his election agent for the remuneration of agent (including the election agent), clerks or messengers. The name and descriptions of each agent, clerk or messenger employed and the rate of remuneration and the amount paid to each shall be shown separately.

Name and description of payee	On what account	Rate of payment	Date of payment	Voucher No.	Amount paid	Amount remaining unpaid
Total ...						

C.—Under head C. shall be shown all other expenditure (including travelling expenses and cost of refreshments provided) incurred by the candidate or his election agent on account of agents (including the election agent), clerks or messengers. The name and description of each agent, clerk or messenger and the amount paid to each shall be shown.

Name and description of payee	On what account	Date of payment	Voucher No.	Amount paid	Amount remaining unpaid
Total ...					

D.—Under head D the cost of printing shall be shown

Name and description of payee	On what account	Date of payment if any	Voucher No.	Amount paid	Amount unpaid
Total ...					

E.—Under head E the cost of advertising shall be shown

Name and description of payee	On what account	Date of payment, if any	Voucher No.	Amount paid	Amount unpaid
Total ...					

F.—Under head F the cost of stationery shall be shown

Name and description of payee	On what account	Date of payment, if any	Voucher No.	Amount paid	Amount unpaid
Total ...					

G.—Under head G the cost of postage and telegrams may be shown in lump sums

Expenditure incurred	Date of payment, if separate payments are shown	Amount paid

H.—Under head H the cost of rooms hired for public meetings or as committee rooms or as an office shall be shown

Name and description of payee	Locality and description of rooms	Date of payment	Voucher No.	Amount paid	Amount unpaid
Total ...					

I.—Under head I shall be included every disputed claim remaining unpaid

Name and description of claimant	Nature and alleged ground of claim	Amount of claim
Total ...		

J.—Under head J all expenditure incurred and payments made by the candidate or by his election agent or by any person on behalf of or in the interest of the candidate in connection with the election and not included in any of the foregoing parts shall be shown

Name and description of payee	On what account	Date of payment, if any	Voucher No.	Amount paid	Amount unpaid
Total ...					

K.—Under head K the total expenditure incurred under each of the previous heads shall be shown

Head	Paid	Unpaid	Total
A			
B			
C			
D			
E			
F			
G			
H, etc.			
Total ...			

Part III.—Declarations by candidates and their agents.—The form of the declarations referred to in sub-paragraphs (2) and (3) of paragraphs 5 of Part II of the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, shall be as follows:—

Form of Declaration by Election Agent

I, being the appointed election agent for a candidate for election in the constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, 's candidature.

Election Agent.

Solemnly affirmed before me.

(Magistrate.)

Form of Declaration by Candidate

I, being a candidate for election in the constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, my candidature.

Candidate.

Solemnly affirmed before me.

(Magistrate.)

Form of Declaration by a Candidate under sub-paragraph (3) of paragraph 5 of Part II of the Order

I, being a candidate for election in the constituency, do hereby solemnly affirm that the return of election expenses signed by my election agent is (with the exceptions noted below) true to the best of my knowledge and belief, and that (with the exceptions noted below) no expenses of any nature whatsoever, other than the expenses therein set forth, have to my knowledge or belief been incurred in, or for the purposes of, my candidature.

Particulars of Exceptions.

(Sd.).....
(Candidate.)

Solemnly affirmed before me,

(Sd.).....
Magistrate.

APPENDIX IX

THE ASSAM (PROHIBITION OF SIMULTANEOUS MEMBERSHIP) RULES, 1936

Notification No. 1310-El., dated the 1st September 1936.—In exercise of the powers conferred by sub-sections (1) and (2) of section 68 of the Government of India Act, 1935, read with paragraph 14(1) of the Government of India (Commencement and Transitory Provisions) Order, 1936, the Governor of Assam in Council is hereby pleased to make the following rules, namely:

1. These rules may be called the Assam (Prohibition of Simultaneous Membership) Rules, 1936.

2. Any person who is chosen a member of both the Chambers of the Legislature of the Province of Assam and who has not taken his seat in any of the Chambers may by notice in writing signed by him and delivered to the Secretaries of both the Chambers, or to any person authorised by the Governor in this behalf, within ten days from the date of publication in the *Assam Gazette* of the declarations that he has been so chosen or, if such publications have been made on different dates, within ten days from the later of such dates, as the case may be, intimate in which of the Chambers he wishes to serve, and any choice so intimated shall be conclusive * [and his seat in the Chamber in which he does not wish to serve shall thereupon become vacant]. In default of such intimation, the seat of such person in the Legislative Assembly shall become vacant.

3. (1) If a person who is already a member of the Legislative Assembly and has taken his seat in such Assembly is chosen a member of the Legislative Council, his seat in the Assembly shall, on the publication in the *Assam Gazette* of the declaration that he has been chosen, become vacant.

(2) If a person who is already a member of the Legislative Council and has taken his seat in such Council is chosen a member of the Legislative Assembly, his seat in the Council shall, on the publication in the *Assam Gazette* of the declaration that he has been so chosen, become vacant.

4. The period at the expiration of which the seat in the Provincial Legislature of a person chosen a member of the Federal (or Indian) Legislature and of the Provincial Legislature (including a person who, being a member of the Federal (or Indian) or of the Provincial Legislature, is chosen a member of the Provincial or of the Federal (or Indian) Legislature respectively) shall become vacant, unless he has previously resigned his seat in the Federal (or Indian) Legislature, shall be ten days from the date of the publication in the *Gazette of India* or in the *Assam Gazette*, whichever is later, of the declaration that he has been so chosen:

Provided that, in a case in which the declaration that a person, being a member of the Indian Legislature, has been chosen a member of the Provincial Legislature is published in the *Assam Gazette* on any date earlier than the 10th April, 1937, the said period shall be the period expiring on the 20th April, 1937, or on the date of the first meeting of the Provincial Legislature, whichever is earlier.

] * Inserted by Notification No.790-El., dated the 20th February 1937.

APPENDIX X

ORDERS AND INSTRUCTIONS OF THE GOVERNMENT.

(1)

Instructions Regarding Corrections, Additions and Amendments in the Electoral Rolls.

(Copy of letter No. 1977-78H., dated the 15th May 1937, from the Chief Secretary to the Government of Assam to the Commissioner, Assam Valley Division Surma Valley and Hill Division)

I am directed to refer to rule 31(a) and (b) of Part I of the Assam Legislative Assembly Electoral Rules, 1936 and rule 22(a) and (b) of Part I of the Assam Legislative Council Electoral Rules, 1936 and to say that these rules authorise the Revising Authority to make minor corrections in, and additions to, the electoral rolls in force regarding names and addresses etc. of electors and printing errors or omissions, but are not intended to provide means for inserting any new name or omitting any one from the rolls in force, for which steps are to be taken under rule 33 of Part I of the Assam Legislative Assembly Electoral Rules and rule 24 of Part I of the Assam Legislative Council Electoral Rules.

2 I am accordingly directed to request you to be so good as to invite the attention of all Revising Authorities, appointed under rule 26 of Part I of the Assam Legislative Assembly Electoral Rules and rule 17 of Part I of the Assam Legislative Council Electoral Rules to the rules referred to in paragraph 1 of this letter. Each Revising Authority will now issue a notice directing that applications for amendment of the electoral rolls will be received by him up to 15th October in each year. Such applications, it will be noted, may be made by any person; he need not be a registered elector nor need the application relate to himself. If no applications are received, no further action will be necessary. If applications are received, the Revising Authority will dispose of them himself, if they fall within rule 31(a) and (b) or 22(a) and (b) of the Legislative Assembly and Council Rules, mentioned above. Otherwise he will forward them to Government not later than the 31st October. If subsequently the Local Government by notification in the Gazette direct the preparation of a list of amendments, the Registering Authority, appointed under rule 5 of Part I of the Assam Legislative Assembly and Council Electoral Rules, will, in consultation with the Revising Authority, notify a date, not later than one month from the date of the notification directing the preparation of such list for the submission of claims and objections to the Revising Authority. These claims and objections will be dealt with in the manner prescribed in rules 23 to 28 of Part I of the Assam Legislative Assembly Electoral Rules and rules 14 to 19 of Part I of the Assam Legislative Council Electoral Rules. The electoral rolls have been sub-divided into territorial units according to the forms prescribed in Appendix B of the Assam Legislative

Assembly Electoral Rules and in rule 6 of Part I of the Assam Legislative Council Electoral Rules and in order to minimise labour the preparation of the lists of amendment may be ordered in respect only of those areas, e.g., Mauzas in the Assam Valley in which suggestions for numerous amendments are received.

3. I am to add that though ordinarily applications to Government under rules 33 and 24 cited above will be submitted annually on the date prescribed above, it is not intended to debar a Revising Authority altogether from sending in an application at any other time if there are special circumstances which necessitate such action.

(2)

List of Titles, orders and decorations for purpose of enrolment on the electoral rolls for the Provincial Legislative Council

List I.—*Titles and honours conferred by His Majesty the King Emperor:—*

Victoria Cross.
Order of the Garter.
Order of the Thistle.
Order of St. Patrick.
Order of the Bath.
Order of Merit.
Baronet.
Order of the Star of India.
Order of St. Michael and St. George.
Order of the Indian Empire.
Order of the Crown of India.
Royal Victorian Order.
Order of the British Empire.
Order of the Companions of Honour.
Knights Bachelor.
Distinguished Service Order.
Imperial Service Order.
Royal Red Cross.
Distinguished Service Cross (Naval).
Military Cross.
Distinguished Flying Cross.
Air Force Cross.
Kaisar-i-Hind Medal (First Class).
Order of St. John of Jerusalem.

List II.—*Indian titles.*

Higher titles (Either hereditary or personal)

1. Maharajadhiraj.
2. Maharaja Bahadur.
3. Maharaja.
4. Maharani.
5. Nawab Bahadur.
6. Raja Bahadur.
7. Nawab.
8. Raja.
9. Begum.
10. Rani.

(7) The Deputy Commissioner, Garo Hills, should send to the Deputy Commissioner, Goalpara, 50 copies of the rolls for the three Garo Hills Plains Mauzas which will vote in the adjacent Goalpara constituencies.

Assam Legislative Council (all postal ballot)

(1) *The Goalpara General Constituency*.—The Deputy Commissioner, Garo Hills, should send 25 copies of the roll of the three plains mauzas of the Garo Hills included in the Goalpara Constituency to the Deputy Commissioner, Goalpara (the Returning Officer).

(2) *The Hills General Constituency*.—The Deputy Commissioner, Garo Hills, Deputy Commissioner, Nowgong, and the Deputy Commissioner, Sibsagar, should send 25 copies of the roll of so much of this constituency as falls within their districts to the Deputy Commissioner, Khasi and Jaintia Hills (the Returning Officer).

(3) *Lower Assam Valley Muhammadan Constituency*.—The Deputy Commissioners, Goalpara, Darrang, Garo Hills and Khasi and Jaintia Hills, should send 25 copies of the roll of their districts to the Deputy Commissioner, Kamrup (the Returning Officer).

(4) *Upper Assam Valley Muhammadan Constituency*.—The Deputy Commissioners, Nowgong and Lakhimpur, should send 25 copies of the roll of their districts to the Deputy Commissioner, Sibsagar (the Returning Officer).

(5) *Surma Valley (East) Muhammadan Constituency*.—The Deputy Commissioner, Sylhet, should send 25 copies of the roll of the Karimganj subdivision of this constituency to the Deputy Commissioner, Cachar (the Returning Officer).

(6) *Assam Valley European Constituency*.—The Deputy Commissioners, Goalpara, Kamrup, Nowgong, Darrang, Sibsagar and Lakhimpur should send 25 copies of the roll of their districts to the Chief Secretary to the Government of Assam (the Returning Officer).

(7) *Surma Valley European Constituency*.—The Deputy Commissioners, Sylhet, Cachar, Garo Hills and Khasi and Jaintia Hills, should send 25 copies of the roll to the Chief Secretary to the Government of Assam (the Returning Officer).

4. The effect of these orders will be that the Returning Officer of each of the constituencies mentioned in paragraph 3 above will, in the case of the Assam Legislative Assembly, have in his possession 50 copies of the roll of the constituency for which he is the Returning Officer out of which copies may be sold by him to the public. It may be noted that 50 and 25 copies respectively which are to be sent to the Returning Officers are exclusive of the two copies which have to be sent to the Returning Officers for the purpose of publication at their offices.

5. Returning Officers, when they receive the portions of the final rolls which fall in each district should take suitable action to have them bound together so that they will have 50 copies of the *complete* roll of the constituencies in the Lower House and 25 copies of the complete roll of constituencies in the Upper House.

(4)

Special Instructions issued under the Assam Legislative Assembly Electoral (Governor's) Rules, 1936, forwarded with letter No. 1576-603-El., dated the 26th September 1936, from the Election Officer to all Returning Officers

1. The dates appointed by the Governor under rules 1(2) of Part III and 2(2) of Part IV of the Assam Legislative Assembly Electoral Rules for nomination, scrutiny of nominations and polling shall be notified in the constituencies in the following manner :—

- (a) In the case of the General Constituencies including those in which seats are reserved for the members of the Scheduled Castes, Muhammadan and "Backward Tribal" constituencies, these dates shall be published by the Returning Officers at the offices of the Deputy Commissioner, Subdivisional Officer, Municipal Board, Small Town Committee, Local Board, Circle Sub-Deputy Collector and Police Station, as the case may be, and in such other place or places in the constituencies as the Returning Officers may consider necessary.
- (b) In the case of the European Constituency, they shall be published by the Returning Officer at the offices of the Deputy Commissioners, and Subdivisional Officers of the districts of Goalpara, Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Sylhet, Cachar (excluding the North Cachar Hills), Garo Hills and Khasi and Jaintia Hills and the office of the Returning Officer and at such European Clubs in the constituency as the Returning Officer may consider necessary.
- (c) In the case of the European Planting Constituency, they shall be published by the Returning Officer at the offices of the Deputy Commissioners and Subdivisional Officers of the districts of Goalpara, Kamrup, Darrang, Nowgong, Sibsagar, Lakhimpur, Sylhet and Cachar (excluding the North Cachar Hills) and the office of the Returning Officer and by intimation to the Assam Branch and the Surma Valley Branch of the Indian Tea Association.

- (d) In the case of the Indian Planting (Assam Valley) Constituency, they shall be published by the Returning Officer at the offices of the Deputy Commissioners and Subdivisional Officers of the districts of Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur and the office of the Returning Officer and by intimation to the Assam Branch of the Indian Tea Association and such other known Associations of Tea Planters in the constituency as the Returning Officer may consider necessary.
- (e) In the case of the Indian Planting (Surma Valley) Constituency, they shall be published by the Returning Officer at the offices of the Deputy Commissioners and Subdivisional Officers of the districts of Sylhet and Cachar (excluding the North Cachar Hills) and the office of the Returning Officer and by intimation to the Surma Valley Branch of the Indian Tea Association and such other known Associations of Tea Planters in the constituency as the Returning Officer may consider necessary.
- (f) In the case of the European and Indian Commerce and Industry Constituencies, they shall be published by the Returning Officer at the offices of all Deputy Commissioners and Subdivisional Officers in the province and the office of the Returning Officer and in such other place or places as the Returning Officer may consider necessary.
- (g) In the case of the Women's (Shillong) Constituency, they shall be published by the Returning Officer at the offices of the Deputy Commissioner of Khasi and Jaintia Hills, Shillong Municipal Board, and Shillong Cantonment Authority, and in such other place or places in the constituency as the Returning Officer may consider necessary.
- (h) In the case of Backward Areas Constituencies, they shall be published by the Returning Officers at the offices of the Deputy Commissioners and Subdivisional Officers of the districts and subdivisions in which such constituencies are situated and in such other place or places in the constituencies as the Returning Officers may consider necessary.
- (i) In the case of the Tea Garden Labour Constituencies, they shall be published by the Returning Officers at the offices of the Deputy Commissioners and Subdivisional Officers of the districts and subdivisions in which such constituencies are situated and in some convenient place in the tea gardens falling within the constituencies and in such other place or places in the constituencies as the Returning Officers may consider necessary.

- (j) In the case of the Indian Christian Constituency, they shall be published in the offices of the Deputy Commissioners and Subdivisional Officers of the districts of Goalpara, Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Sylhet and Cachar (excluding the North Cachar Hills) and at such headquarters of Christian Missions in the constituency as the Returning Officer may consider necessary.

2. The names of the duly nominated candidates [*vide* rules 8 of Part III and 6(1) of Part IV], the hours of polling (*vide* rule 1 of Part V) and the lists of polling stations selected by the Returning Officers with their respective distinctive numbers and polling areas [*vide* rule 2(1) of Part V] shall also be notified in the same manner as prescribed in paragraph 1 above.

(5)

Special instructions issued under the Assam Legislative Council Electoral (Governor's) Rules, 1936, forwarded with letter No.1604-11-E1, dated the 26th September 1936, from the Election Officer to all Returning Officers

1. The dates appointed by the Governor under rule 1(2) of Part III of the Assam Legislative Council Electoral Rules for nomination, scrutiny of nominations and polling shall be notified in the constituencies in the following manner :—

- (a) In the case of the General Constituencies and Muhammadan Constituencies, these dates shall be published by the Returning Officers at the offices of the Deputy Commissioner or Deputy Commissioners, Subdivisional Officer or Subdivisional Officers, Municipal Board or Boards, Small Town Committee or Committees, Local Board or Boards, Circle Sub-Deputy Collector or Sub-Deputy Collectors, as the case may be, and in such other place or places in the constituencies as the Returning Officers may consider necessary.
- (b) In the case of European Constituencies, they shall be published at the offices of the Deputy Commissioners and Subdivisional Officers and at such European Clubs in the constituencies as the Returning Officers may consider necessary.

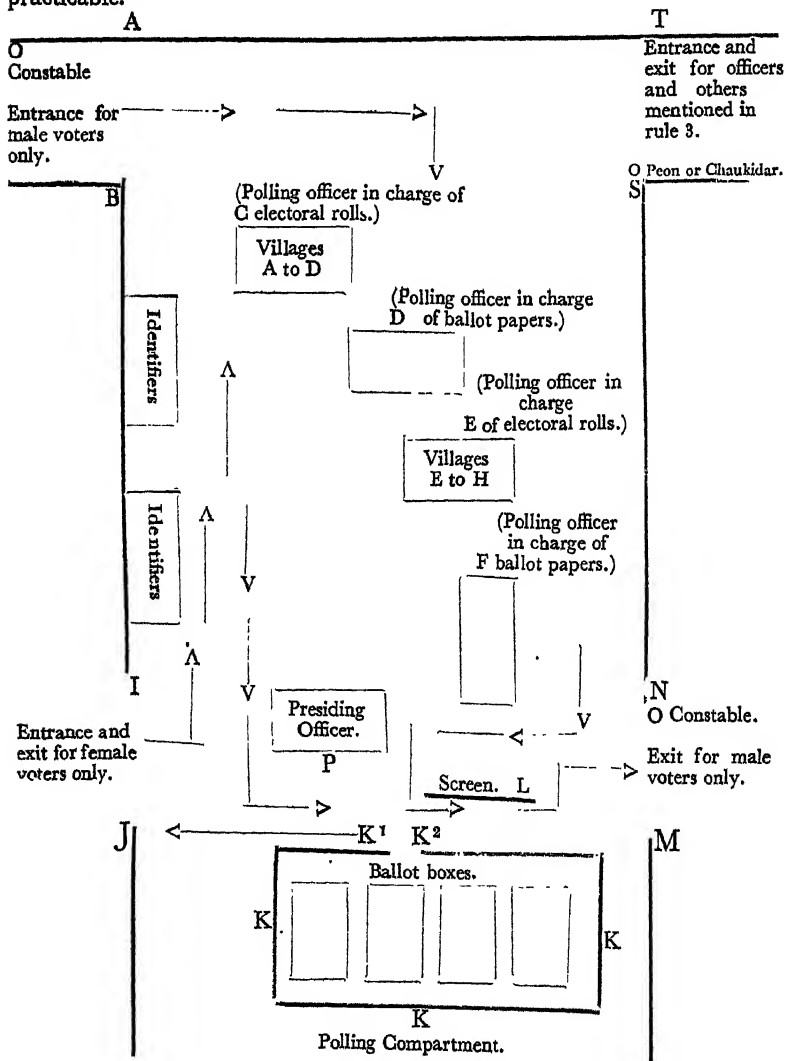
2. The names of the duly nominated candidates [*vide* rule 5(1) of Part III] shall also be published in the constituencies in the same manner as prescribed in paragraph 1 above.

(6)

General Instructions for the guidance of Returning and Presiding Officers at elections to be held on the Symbol system in General, Muhammadan, Women's (Shillong), Indian Christian, Backward Tribal, Backward Areas, and Labour constituencies of the Assam Legislative Assembly*

1. The voting should be conducted in accordance with the rules in Part V of the Assam Legislative Assembly Electoral Rules, a copy of which is attached herewith for the use of the presiding officer.

2. The sketch below illustrates the manner in which a four--clerk polling station may be arranged for a constituency containing both male and female voters. It is of course not intended to be more than a rough indication of arrangements; these can be varied according to the discretion of presiding officers, regard being had to local conditions. In smaller or bigger polling stations, similar arrangements may be followed as far as practicable.



3. Where possible, there should be a separate entrance and a separate exit for male voters and another entrance and exit for female voters—as shown in the sketch. The male voters may enter at the opening marked A—B. The presiding officer should regulate the number of voters to be admitted at one time [*vide* rule 3(1)] and an intelligent peon may be particularly deputed to lead each batch of such voters to the polling officer (C or E in the sketch) in charge of the electoral rolls of their respective villages. This polling officer will direct each voter as soon as he has done with him to proceed to the other polling officer (D or F in the sketch) in charge of the ballot papers and obtain his ballot paper or papers from him. The voters will in this way go to the polling compartment one by one after showing the official mark to the presiding officer or a polling officer appointed by him for this purpose, quit it as soon as possible after putting their ballot papers into the ballot boxes and then depart by the exit marked M—N. Similarly female voters should enter at the opening marked I—J and quit the polling station, after voting, through the same opening.

4. The important feature of this election is that the presiding officer has practically been relieved of all clerical work so that he may exercise the closest supervision and achieve the greatest expedition in polling. The presiding officer's table should be so placed (see P in the sketch) that he can have an unobstructed view of the whole arrangement. The main thing is for the presiding officer to give the correct start to the proceedings and to see that there is neither any over-crowding nor needless loitering anywhere, and that there is always an even flow of voters in and out of the polling compartment, one by one. The presiding officer is the only person authorised to enter the polling compartment [*vide* rule 11(2)] but the necessity for entering it may not arise unless a voter unnecessarily loiters there or there is reason to suspect any malpractices.

5. Where possible, polling stations should be arranged in suitable existing buildings such as school buildings, Sub-Deputy Collector's offices, etc. Subject to local conditions, attempts should be made to select such buildings which have at least two doors. If any necessary alteration is considered feasible in, for example, a Local Board Primary School building, it may be made at Government cost with the permission of the Local Board concerned. Dispensaries and Police Stations should, if possible, not be selected as polling stations, and for Labour constituencies the polling stations should preferably be in some suitable buildings *outside* the tea gardens. Where no accommodation is available in any existing building, temporary and inexpensive shelters may be erected.

6. Though the rules provide for more polling compartments than one, it may not be necessary to have more than one polling compartment in any station. It is for the presiding officer to decide what would be the best method of screening the polling compartment [*vide* rule 5(1)]. What is necessary is to screen from observation the four sides of the polling compartment, leaving only one passage open (see K¹ and K² in the sketch) and to

have another screen (see L in the sketch) in front of this passage. In school buildings, which will generally be the polling stations, black boards may operate as inexpensive screens, if the ballot boxes are placed on benches.

7. There should be a sufficient number of clerks (polling officers) for each polling station. The smallest polling station should consist of one presiding officer, and two clerks of whom one should be in charge of the electoral roll and the other of ballot papers and stamping machine [*vide* rule 9(1) and (3)]. All offices will be closed at least on heavy polling days and such holidays will be announced in due course. The clerks of all Government offices should be pressed into service, including fully literate mandals and patwaries. But as, in this election, polling clerks will be called upon to do some more responsible work which used to have been done by presiding officers in elections held prior to the 1st April 1937, care should be taken to select more senior clerks to be in charge of ballot papers and stamping machines. Both the presiding and polling officers for Labour constituencies should be Government officers. In the Women's (Shillong) Constituency, it is expected that both the presiding and polling officers will be women [*vide* rule 5(3)].

8. As the number of polling stations has increased considerably, it may not be possible to secure more than two constables per station. One constable may remain at the entrance for the male voters and another at the exit (see A—B and M—N in the sketch). In Sylhet, Cachar and Goalpara districts, chaukidars, and in other districts peons, may supplement the police. Arrangements for police constables should be made in good time before the date of polling in consultation with the Superintendent of Police, since in some districts it may be necessary to depute police from neighbouring districts. The presiding officer will be personally responsible for seeing that female voters are properly looked after, and he should select old and experienced public servants (preferably not police constables or chaukidars) to assist him in this duty. Where available, a woman in attendance may be useful in helping him to identify the female voters and otherwise assisting them.

9. Each polling station should be provided with the requisite number of symbols, electoral rolls, ballot papers, stamping machines, tendered ballot papers, tendered votes lists, challenged votes list, ballot paper account, certificates under rule 18, etc., ballot boxes, and stationery articles including thumb impression sets and materials for sealing packets and ballot boxes. The name seal of the presiding officer will do very well for sealing the packets, etc., but if that is not available, a brass seal should be provided by the Returning Officer.

10. The hours of polling will be fixed and notified in due course under rule 1(1) and the polling station must be closed punctually at the closing hour, but all voters admitted to the polling station before it is closed are entitled to have their votes recorded [*vide* rule 3(2)].

11. The presiding officer must familiarize himself with the procedure of voting as laid down in Part V. His particular attention is invited to rules 3, 5, 6, 15, 16, 18 and 19. The tendered ballot papers shall be set aside in a separate packet under rule 15 and the ballot papers dealt with under rule 19(2) (iii) will be separately placed in a sealed envelope and returned to the Returning Officer concerned.

In **primary elections** for general constituencies in which seats are reserved for members of the Scheduled Castes, the same procedure of voting will be followed [*vide* rule 9(4) of Part V and rule 5(2) of Part III].

12. When the polling is finished, the presiding officer should paste over the slit of each ballot box a slip of paper in the following form :

ASSAM LEGISLATIVE ASSEMBLY ELECTION

Constituency _____

Polling Station and No. _____

Signature of the Presiding Officer _____

13. The ballot boxes and packets will be forwarded by the presiding officer to the Returning Officer together with the statement under rule 21. Where elections are held on consecutive days, the boxes and packets may conveniently be forwarded together after the last day's polling is over ; but all boxes and packets relating to the previous day's or days' polling must be made up and sealed on the day or days of polling and must be kept in presiding officer's custody until despatch, and must not be reopened under any circumstances.

14. These instructions are issued only with a view to helping the presiding officer to conduct the election carefully and properly ; they are neither exhaustive nor mandatory. As local officers are in a better position to judge their own affairs according to local conditions, it is expected that they will, where necessary, adopt better and easier methods than those recommended without, of course, going beyond the provisions of the Electoral Rules.

(7)

Selection of Presiding Officers

(Copy of letter No.1383-92-El., dated 8th September 1936, from the Reforms Officer, Government of Assam, to all Deputy Commissioners)

I am directed to say that the Government of Assam attach the greatest importance to employing as presiding officers at the forthcoming general election only those who have the confidence of the public and who can be trusted to discharge such responsible duties honestly, efficiently and impartially.

A presiding officer—as pointed out in paragraph 22 of the Indian Franchise Committee's report “must be a person of sufficient authority and competence to manage the officials and control the agents of candidates, the voters, and if necessary the police in the polling station. He must be capable of understanding the law and practice relating to the conduct of elections sufficiently to enable him to decide any disputes that may arise. And, above all, he must be of such standing and reputation for integrity that he will be above suspicion of abusing his power in the interest of any candidate or parties, and that candidates, their agents, and the general public will have confidence in his impartiality. The number of suitable persons available as presiding officers varies in every province, and from district to district in every province. In the main Government officers above a certain grade and salary have been used hitherto, supplemented in greater or less degree by non-officials. Even with these restricted classes, complaints, allegations of malpractices and the presentation of election petitions have been frequent. Such petitions may be expected to be more numerous in future, owing to the keener interest which is likely to be taken in future elections and the larger number of candidates. Presiding officers, therefore, of the necessary character and competence are essential”.

As regards the use of non-officials as presiding officers the Indian Franchise Committee remarked as follows:—

“We have considered very carefully the question of the extent to which non-officials can be used as presiding officers. That both men and women can be used is certain, but the limitations are two-fold. The first is that while a number may be available in towns, there are many rural districts in which hardly any assistance of this kind would be forthcoming. The second is that many otherwise suitable persons are actively engaged in politics and that objections are frequently raised against non-official presiding officers owing to political, religious, caste or other reasons.”

2. The views of the Assam Franchise Committee on the same matter were as follows:—

“The Committee were of the unanimous opinion that, as a rule, the presiding officer must be a Government official. They would not restrict this to the employment of only gazetted officers. They would include non-gazetted officers such as Inspectors of Excise and also ministerial officers of a higher grade such as Sheristadars and Head clerks of the Offices of a Deputy Commissioner or of a Commissioner. They would not exclude pensioned Government officers or officers whose services had been lent to the Court of Wards provided that they held the same rank as the officers dealt with in the first part of this paragraph.

As regards members of local bodies and village bench courts and Honorary Magistrates, these were generally non-officials. The Committee were of opinion that non-officials should be employed as presiding officers only with the consent of the candidates. It was suggested that when candidates appear

before the Returning Officer on the date fixed for the scrutiny of nominations they might be asked whether they objected or consented to their employment as such".

3. Government agree generally with the views of the Assam Franchise Committee but consider that suitable opportunities for the employment of non-officials in this province will be limited. Furthermore, officers of the Police, Jail or Medical Services should not be employed as presiding officers in view of the nature of their duties. Otherwise District Officers may employ as presiding officers any suitable officers of any department of the Local Government but no officer should be selected unless the District Officer is satisfied that such officer can be trusted to perform his duties with entire impartiality.

4. As regards polling officers (clerks) these should as usual be selected from the clerical staffs employed in district and departmental offices.

5. The presiding and polling officers selected will, of course, have to be trained in their duties and District and Subdivisional Officers should start "training classes" for presiding and polling officers in ample time before the election.

(8)

Officers Authorised to Receive Election Petitions

Notification No.398-L., dated the 21st June 1940.—In supersession of Notification No.2083-El., dated the 27th October 1936, the Governor of Assam is pleased, in pursuance of sub-rule (2) of rule 2 of Part X of the Assam Legislative Assembly Electoral (Governor's) Rules, 1936, and sub-rule (2) of rule 2 of Part VI of the Assam Legislative Council Electoral (Governor's) Rules, 1936, to appoint the following officers to receive election petitions presented under sub-rule (1) of the said rule 2 from any constituency in the Province :—

1. Commissioner of Divisions.
2. Secretary to the Government of Assam in the Legislative Department.

(9)

Rules for Inspection of Election Papers and Granting Copies thereof

Notification No. 737-El., dated the 19th February 1937.—In pursuance of rule 2 of Part XII of the Assam Legislative Assembly Electoral (Governor's) Rules, 1936 and rule 2 of Part VIII of the Assam Legislative Council Electoral (Governor's) Rules, 1936, read respectively with paragraph 26 of Part I of the Government of India (Provincial Legislative Assemblies) Order, 1936, and paragraph 23 of Part I of the Government of India (Provincial Legislative Councils) Order, 1936, the Governor of Assam in Council is pleased to make the following rules for the public inspection of documents open to public inspection and for granting copies of, or extracts from, them :

(1) Applications for inspection or copies of any documents shall contain the name, address and occupation of the applicant, and particulars (including the date of the election) of the documents to be inspected or copied. Such applications shall be presented in the office of the Inspector-General of Registration, Assam, between 11 a.m. and 4 p.m. on all week days except Saturdays when they shall be presented between 11 a.m. and 1 p.m.

(2) For each inspection of a packet, or part of a packet, a fee of Rs.2 shall be charged.

(3) The fee for copies shall be at the rate of annas two for every hundred words or fraction thereof.

If an applicant requires a copy to be furnished on the day of application, an extra fee of one rupee shall be charged on a copy so furnished. Provided that if the copy or copies exceed 1,200 words in length, the extra fee shall be at the rate of four annas for each 300 words or fraction thereof.

(4) If the document to be inspected or copied cannot be traced from the particulars furnished in the application a search will be made on payment by the applicant of a fee of Re.1.

(5) All fees realised shall be credited to Government.

(10)

Debit of Expenditure on Travelling Allowances

(Copy of letter No. 586-95El., dated the 28th January 1937, from the Election Officer, Government of Assam, to all Deputy Commissioners)

I am directed to say that the expenditure on travelling allowance etc. of officers and clerks of various departments of the Local Government, employed in connection with the polling for the ensuing elections to the Provincial Legislatures will be debited to the same head as their pay and that of non-officials, if any, to the head "22 (now 25)—General Administration—Legislative Bodies—I.—Election Charges" in the budget for the current financial year.

2. I am also to say that the expenditure incurred on account of travelling allowance etc. of officers and clerks of the Central Government, whose services have been required in connection with the ensuing elections for the Assam Legislatures, will be borne by this Government and debited to the head "22 (now 25)—General Administration—Legislative Bodies—I.—Election Charges" in the current year's budget. They should, however, be allowed travelling allowance beyond a radius of 5 miles at the rates admissible under the rules of the Local Government.

3. You may ask, whenever required, for funds so far as they are to be met from the head "22 (now 25)—General Administration—Legislative Bodies—I.—Election Charges."

APPENDIX XI

ASSAM ACT III OF 1938

THE ASSAM PROVINCIAL LEGISLATURE (REMOVAL
OF DISQUALIFICATIONS) ACT, 1938

[Passed by the Assam Legislature]

[Published in the *Assam Gazette* of the 11th January 1939]*An Act to provide for the Removal of certain Disqualifications for
Elections to the Assam Legislature*16 Geo V,
h.2.

WHEREAS it is expedient to provide in accordance with section 69(1)(a) of the Government of India Act, 1935, that the holders of the offices hereinafter mentioned shall not be disqualified for election to either Chamber of the Assam Legislature, it is hereby enacted as follows :—

Preamble.

1. This Act may be called the Assam Provincial Legislature (Removal of Disqualifications) Act, 1938.

Short title.

2. A person shall not be disqualified for being chosen as, or for being, a member of either Chamber of the Assam Legislature by reason only of the fact that he holds any of the following offices, namely :—

Removal of
certain dis-
qualifica-
tions.

- (1) the office of Parliamentary Secretary or of Parliamentary Private Secretary, if and when created ;
- (2) any of the officers shown in the schedule to this Act.

SCHEDULE

1. Gaonbura, Chowkidar, whether called by this or any other title.

2. Government Pleader or Public Prosecutor.

3. Officer in the Army in India Reserve of Officers, or Officer, non-commissioned officer, or other member of the Indian Territorial Force.

4. Members of the Auxiliary Force in India.

5. Part-time professors, lecturers, instructors or teachers in Government educational institutions.

6. Medical practitioners rendering part-time service to Government.

APPENDIX XII

FORMS

FORM No. I

Notice to Women Voters to Submit Applications to be Enrolled

[See Note to paragraph 7(xvii) (b) of Chapter III]

Notice is hereby given that the Deputy Commissioner
Subdivisional Officer is preparing a list of women voters for the Assam Legislative Assembly. Under the Government of India Act special additional qualifications have been laid for women but in order to obtain registration on the electoral roll in respect of such qualifications women must themselves apply for registration. The following are the special additional qualifications which will qualify a woman over 21 years of age to be entered as a voter in the roll—

- (i) if she is the pensioned widow or pensioned mother of a person who was an officer, non-commissioned officer or soldier in the Army or the Assam Rifles or the pensioned widow or pensioned mother of a person who was an officer or man of an Indian Police Force (See paragraph 12 of Part I of the Sixth Schedule) ; or
- (ii) if she is literate [See paragraph 13(1) of Part I of the Sixth Schedule] ; or
- (iii) if her husband possesses any of the following qualifications :—
 - (a) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular military forces or the Assam Rifles or is a retired, pensioned or discharged officer or man of an Indian Police Force ; or
 - (b) was in the previous financial year assessed to income-tax ; or
 - (c) was in the previous financial year assessed in the constituency in respect of municipal or cantonment rates or taxes—
 - (i) in the Nowgong municipality, to not less than two rupees or
 - (ii) in the Sylhet municipality, to not less than one rupee eight annas ; or
 - (iii) elsewhere in the Province, to not less than three rupees ; or
 - (d) was in the constituency assessed in the previous financial year to a tax of not less than one rupee in a Small Town ; or
 - (e) was in the constituency assessed in the previous financial year in the district of Sylhet, the district of Cachar or the district of Goalpara to a tax of not less than one rupee under the Village Chaukidari Act, 1870 ; or
 - (f) elsewhere than in the said districts, is the owner of land in the constituency, the land revenue on which has been assessed or is assessable at not less than fifteen rupees per annum ; or
 - (g) is liable to pay a local rate in the constituency of not less than one rupee per annum.

N. B.—In the case of a husband with two or more wives only one wife can vote in respect of her husband's qualification. (See rule 12 of Part I of the Assam Legislative Assembly Electoral Rules, 1936.)

Women who possess any of the qualifications mentioned above and who wish to be entered in the roll should therefore apply either by letter or in person to the ^{Deputy Commissioner} ~~Subdivisional Officer~~ giving their names and addresses with full particulars of the qualifications in respect of which they claim to be included in the electoral roll in the manner prescribed in rule 15 of Part I of the Assam Legislative Assembly Electoral Rules, 1936.

N.B.—See proviso to paragraph 8 of Part IX of the Sixth Schedule regarding (iii) above.

FORM No. II

Notice Publishing Electoral Rolls and Calling for Claims and Objections

(See Note I to paragraph 10 of Chapter III)

The electoral roll of the.....
 constituency [or so much of the.....constituency
 as falls within the.....^{district}_{subdivision}] is hereby
 published for general information.

Any person whose name is not entered in the roll and who claims to be entitled to be registered as an elector may submit a written claim to the Revising Authority within 21 days from the date of publication and any person whose name is entered in the roll and who objects to any entry in the roll may submit a written objection to the Revising Authority within the same period. All claims and objections should contain a brief statement of the facts on which the claimants or objectors rely to support their case.

Any person who finds that his name is entered on the roll but that it is wrongly spelt or contains incorrect particulars may also apply to the Revising Authority for correction of the entry.

[Claims and objections — which should be addressed to the Revising Authority — may be presented to the Subdivisional Officer for submission to that authority.]

Date.....

Signature of Registering Authority.

FORM No. III

Notice of Objections Against Persons Enrolled.

(See *Note I to paragraph 11 of Chapter III*)

To.....
of.....

Whereas objection has been made by.....
of.....to the inclusion of your name in the
electoral roll of the.....
constituency of the.....on the ground that.....
you are hereby informed that the objection will be heard at.....
at.....o'clock on the.....day of.....
and you are directed to be present at the hearing with such evidence as
you may wish to adduce.

Revising Authority.

Certified that this notice has been duly served by me this.....
day of.....,

Signature.

FORM No. IV

Notice Publishing the Date of Nomination and Scrutiny of Nominations

(See paragraph 2 of Chapter V)

Whereas the _____ constituency of
 Whereas the electors of the Scheduled Castes of the.....General constituency of
 the Assam Legislative Assembly ^{has} ~~have~~ been called upon by notification ²
 to elect a member (members) _____ on or before
 a panel of not more than four candidates³

I,

the Returning Officer of the said constituency, do hereby give the following:—

PUBLIC NOTICE

(i) The number of persons to be elected is.....

(ii) Nomination papers may be delivered to the undersigned at (office)
 or if he is unavoidably prevented from receiving the same to

at (office). They should be presented between 11 A.M. (local)
 and 1 P.M. (local) on or before (date ⁴)

(iii) Forms of nomination paper may be obtained at the offices of the
 persons above mentioned between the hours of (hour) and (hour) from
 (date) to (date).

(iv) In the event of the election being contested, the poll will take
 place on _____ between the hours of 10 A.M. (local) and 5 P.M.
 (local).

Date _____

Returning Officer.

Address _____

¹ For primary elections for seats reserved for members of the scheduled castes.

² See notification calling upon the constituency to elect member or members or a panel of candidates.

³ Here give the date fixed for nomination and scrutiny of nominations.

⁴ This will be omitted in the case of constituencies in which the method of voting by postal ballot shall be followed and in the case of other constituencies, if polling date is not fixed.

⁵ Here give the polling date, if fixed.

FORM No. V

Notice Publishing the Date of Nomination and Scrutiny of Nominations.
(See *paragraph 2 of Chapter V*)

Whereas the _____ constituency of the Assam
Legislative Council has been called upon by notification ¹ to elect a member
on or before _____ I,
the Returning Officer of the said constituency, do hereby give the
following :—

PUBLIC NOTICE

(i) The number of persons to be elected is one.

(ii) Nomination papers may be delivered to the undersigned at
(office) or if he is unavoidably prevented from receiving the same to
_____ at (office). They should be presented between 11 A.M.
(local) and 1 P.M. (local) on or before (date)².

(iii) Forms of nomination paper may be obtained at the offices of
the persons abovementioned between the hours of (hour) and (hour) from
(date) to (date).

Date.....

Returning Officer.

Address.....

¹. See notification calling upon the constituency to elect member or members.

². Here give the date fixed for nomination and scrutiny of nominations.

FORM No. VI

Notice of Nominations

[See paragraph 6(ii) of Chapter V]

Notice is hereby given that the following nominations have been received
 by the undersigned for election in _____ constituency of the Assam
for primary election
 Legislative Council.
Assembly.

Serial number of the Nomination paper	Name of candidate and his or her father's or husband's name*	Age of candidate	Address of candidate	Community or caste of candidate†	Number of the candidate in the electoral roll of the constituency in which he is enrolled and the name of that constituency	Name and number of the proposer in the electoral roll‡	Name and number of the seconder in the electoral roll
1	2	3	4	5	6	7	8

Returning Officer

Date.....

.....Constituency

Assam Legislative Council.
Assembly

*Say A son or wife of B.

†Say whether Muhammadan, Indian Christian, European or belonging to general community—and state caste, if belonging to scheduled caste. Not to be filled up for special constituencies or for Women's (Shillong) of the Assam Legislative Assembly.

‡Say 1,000 of constituency.

FORM No. VII

Notice of Scrutiny of Nominations

[See *paragraph 6(iii) of Chapter V*]

Notice is hereby given that the undersigned has appointed (local) as the time and as the place for the scrutiny of nominations received for constituency of the Assam Legislative $\frac{\text{Council}}{\text{Assembly}}$, at which time and place the candidates, their election agents, one proposer and one seconder of each candidate and one other person duly authorised in writing by each candidate will be given all reasonable facilities to examine the nomination papers delivered within the prescribed time and in the prescribed manner.

*Returning Officer**Date.....**Constituency*
Assam Legislative $\frac{\text{Council.}}{\text{Assembly.}}$

FORM No. VIII

Notice of Withdrawal

[See paragraphs 6(vi) and (viii) of Chapter V]

I _____ of _____, a candidate
 duly nominated for election in _____ constituency of the Assam
for primary election
 Legislative Council, do hereby give the Returning Officer notice that I with-
Assembly
 draw my candidature.

Dated this _____ day of _____ 19____

Signature of candidate.

This Notice of Withdrawal was delivered to me at my office at (hour) on _____
 (date) by the candidate himself
candidate's proposer
candidate's seconder

Returning Officer

Constituency _____
 Assam Legislative Council
Assembly.

FORM IX

Notice of List of Valid Nominations

[See paragraphs 6 (vii) and (viii) of Chapter V]

List of candidates for ^{Election} Primary Election in the _____
 constituency of the Assam Legislative ^{Council} Assembly :—

Serial No. (alphabetically arranged)	Name of candidate	Address of candidate	Symbol assigned to the candidate *
1	2	3	4

Date _____

Returning Officer.

* Not to be filled in constituencies where the method of voting by postal ballot shall

FORM No. X

Notice of List of Nominated Candidates

[See paragraph 6(ix) of Chapter V]

NOTICE

Under rule 4(1) of Part III of the Assam Legislative Assembly Electoral Rules,
 Under rule 6(1) of Part IV of the Assam Legislative Assembly Electoral Rules,
 * Under rule 8 of Part III of the Assam Legislative Assembly Electoral Rules,
 Under rule 5(1) of Part III of the Assam Legislative Council Electoral Rules,
 1936, it is hereby notified that the following candidates were duly nominated

for the primary election seat reserved for the members of the scheduled castes
the election seat or seats
the election seats
the election seat

in the _____ constituency of the Assam Legislative ^{Assembly} Council _{Council} :—

Serial No. (alphabetically arranged)	Name of candidate	Address of candidate	Name of symbol assigned to the candidate †
1	2	3	4

Date _____

Returning Officer, _____ Constituency,
 Assam Legislative ^{Assembly} Council.

* For notification under rule 8 of Part III of the Assembly Rules, the candidates of the scheduled castes should be marked with asterisks.

† Not to be filled in constituencies where the method of voting by postal ballot shall be followed.

FORM No. XI

Notice of Polling and Polling Stations

(See paragraph 7 of Chapter VI)

It is hereby notified that _____ 19 ____ has been appointed as the date for the poll in _____ constituency of the Assam Legislative Assembly. The voting shall be continued from _____ A. M. (local) to _____ P. M. (local). If the voters do not turn up in time within these polling hours, they will not be able to vote.

2. The names and symbols of the candidates of this constituency are :—

	Names	Symbols
1.	A	say, MANGO
2.	B	ELEPHANT

3. The names and descriptions of polling stations are given below with their distinctive serial numbers and polling areas. The voters of the polling areas mentioned in column III will vote in the respective polling stations mentioned in column II.

Serial No.	Name and description of polling station	Polling areas
I	II	III

*Returning Officer,
Constituency,
Assam Legislative Assembly.*

Date

FORM No. XII

Notice of Return of Election Expenses and Declarations

[See paragraph 7(ii) of Chapter VIII]

It is hereby notified under rule 5 of Part VIII of the Assam Legislative
under rule 9 of Part VIII of the Assam Legislative
under rule 3 of Part V of the Assam Legislative
Assembly Electoral Rules,
Assembly Electoral Rules, 1936, that the return of election expenses and declara-
Council Electoral Rules,

tions of _____, a duly nominated candidate of the

constituency of the Assam Legislative Assembly
the Assam Legislative Assembly was lodged with the under-
the Assam Legislative Council

signed on _____ and that it can be inspected in his office

between _____ and _____ except on Sundays and

other public holidays on payment of the prescribed fee of rupee one.

2

Date _____

Returning Officer,

Constituency,

Assam Legislative Assembly.
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